

IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA  
CIVIL DIVISION

2007 MAR 30 A 9:37

WILLIAM S. MCLAURINE, II  
plaintiff, pro se

THOMAS P. HACKETT, C.  
U.S. DISTRICT COURT  
MIDDLE DISTRICT ALA

v.

the CITY OF AUBURN, ALABAMA  
unnamed police DISPATCHER  
deputy director BENJAMIN WALKER  
Officer LAVARRO BEAN  
Lieutenant MATTHEWS  
Lieutenant KEITH HOWELL  
Chief FRANK DEGRAFFENRIED  
DAVID WATKINS  
director "BILL" JAMES  
City Manager CHARLES DUGGAN

CIVIL ACTION NO. 3:06cv1014-MEF

**DEMAND FOR JURY TRIAL**

AFFIDAVIT FOR DECLARATION OF DISCOVERY

I, William S. McLaurine, II make this declaration as true facts concerning this matter.

[1] I have filed NOTICE(S) OF COMPLAINT with the office of the City Manager, of Auburn, Alabama in this matter, even though I do not now believe them necessary to proceed.

[2] During my arrest by Officer Lavarro Bean, on or about November 24, 2004, shortly after midnight, Officer Lavarro Bean used multiple racially charged statements. Those statements were, "Is it because I'm black" (in reference to why I wouldn't answer his questions), "What nation do you work for." and "Is it because you work for the confederate government?"

At first I was irritated and thought why does it always have to be about race? As the line of question went on I became afraid. I had the tingling sensation you get on the back of your neck. I thought to myself, "These guys can do anything."

Officer Matthews was present and at a range that allowed him to make a comment on my statements at a later time in the interrogation.

[3] The following information is posted on the website belonging to the city of Auburn, Alabama. The specific web address is

<http://www.auburnalabama.org/citycouncil/agenda/2005/122005/Minutes.htm>

This information is identified as approved minutes of the city council meeting of December 20, 2005. The following is quote of the statements made on the website listed in this section [3]:

Mr. Zellars said he was also concerned about the use of racial slurs in the statements from the

court proceedings. He said he wanted to read from the documents some of the statements made in those court proceedings.

Mr. Watkins said he is not comfortable with citizens slandering City employees in this manner. He said he did not feel this was proper. He said the entire transcript needs to be read in order to get the full grasp of all statements made.

Bishop Dowdell said this is a public hearing and as such under the first amendment laws, Mr. Zellars has a right to read the transcript which is a public document. He felt the City Manager was out of order because Mr. Zellars was addressing the Council.

Councilman Gray called a "point of order" question. He said that under Robert's Rules of Order, a motion to adjourn is always in order.

City Council Minutes

December 20, 2005

Page 30

## 12. ADJOURNMENT.

Councilman Gray moved that the meeting be adjourned.

Councilwoman Eckman seconded the motion and all members voted aye.

Mayor Ham declared the meeting adjourned at 9:10 PM.


This is the conclusion of the quote of approved minutes of the City Council of Auburn, Alabama.

[4] I was approached by an plea offer negotiated between Phil Thompson and Mathew White without my knowledge. The deal was to drop charges in exchange for William S. McLaurine signing a "civil release." I understood this to mean that I would not be prosecuted if I agreed not sue the city. I refused the offer.

[5] The Plaintiff is a licensed Professional Engineer in the state of California. License number C66284.

I declare under penalty of perjury that the above information is true and correct.

DATE: March 29, 2007

  
\_\_\_\_\_  
William S. McLaurine, II  
222 Tichenor Avenue #4  
Auburn, Alabama 36830  
(334) 524-2175

**COURT OF CRIMINAL APPEALS**  
**STATE OF ALABAMA**

PAMELA W. BASCHAB  
Presiding Judge  
H. W. "BUCKY" McMILLAN  
GREG SHAW  
A. KELLI WISE  
SAMUEL HENRY WELCH  
Judges



Lane W. Mann  
Clerk  
Gerri Robinson  
Assistant Clerk  
(334) 242-4590  
Fax (334) 242-4689

**CR-05-1600**

William S. McLaurine v. City of Auburn (Appeal from Lee Circuit Court: CC05-289)

**ORDER**

The Court of Criminal Appeals ORDERS that the certificate of judgment issued by this Court on March 14, 2007 be, and the same is hereby, recalled. The appellant's request to file a late application for rehearing and supporting brief is GRANTED. Appellant is given 14 days from the date of this order to file an application for rehearing and supporting brief with this Court. Due on or before April 5, 2007.

Done this the 22nd day of March, 2007.

*Pamela W. Baschab*

Pamela W. Baschab, Presiding Judge  
Court of Criminal Appeals

cc: Hon. John V Denson, II, Circuit Judge  
Hon. Corinne Tatum Hurst, Circuit Clerk  
J. Victor Price, Attorney  
William S. McLaurine, Pro Se  
Matthew White, Attorney

**COURT OF CRIMINAL APPEALS**  
**STATE OF ALABAMA**

PAMELA W. BASCHAB  
Presiding Judge  
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GREG SHAW  
A. KELLI WISE  
SAMUEL HENRY WELCH  
Judges



Lane W. Mann  
Clerk  
Gerri Robinson  
Assistant Clerk  
(334) 242-4590  
Fax (334) 242-4689

**CR-05-1600**

William S. McLaurine v. City of Auburn (Appeal from Lee Circuit Court: CC05-289)

**ORDER**

It is hereby ORDERED that the City of Auburn's motion to strike appellant's motion for rehearing is DENIED.

Done this the 22nd day of March, 2007.

*Pamela W. Baschab*

---

Pamela W. Baschab, Presiding Judge  
Court of Criminal Appeals

cc: William S. McLaurine, Pro Se  
Matthew White, Attorney



COURT OF CRIMINAL APPEALS NO. \_\_\_\_\_

**APPEAL TO ALABAMA COURT OF CRIMINAL APPEALS**

FROM

CIRCUIT COURT OF \_\_\_\_\_ LEE \_\_\_\_\_ COUNTY, ALABAMA

CIRCUIT COURT NO \_\_\_\_\_ CC 2005 000289

CIRCUIT JUDGE \_\_\_\_\_ HON JOHN V DENSON II

Type of Conviction/ Order Appealed From: \_\_\_\_\_ OBSTRUCTING GOVERNMENTAL OPERATIONS

Sentence Imposed: \_\_\_\_\_ 3MTHS JAIL TIME SUPENDED, PLACED ON 1YR UNSUP PROBATION/C/C FINE \$500,VCF \$25.00

Defendant Indigent: ☐ YES ☒ NO

**WILLIAM S MCLAURINE**

**NAME OF APPELLANT**

HON J VICTOR PRICE 334 283 3388

(Appellant's Attorney)

(Telephone No.)

17 SISTRUNK STREET

(Address)

TALLASSEE

AL

36078

(City)

(State)

(Zip Code)

**V.**

**CITY OF AUBURN**

**NAME OF APPELLEE**

(State represented by Attorney General)

NOTE: If municipal appeal, indicate above, and enter

name and address of municipal attorney below.

MATHEW WHITE & PATRICK DAVIDSON

P O BOX 2069 OPELIKA AL 36803-2069

(For Court of Criminal Appeals Use Only)

# *I N D E X*

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<i>COMPLAINT</i>	<i>013</i>
<i>NOTICE OF APPEAL TO CIRCUIT COURT AND APPEAL BOND</i>	<i>014</i>
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<i>MOTION FOR TRIAL DE NOVO WITH JURY</i>	<i>019</i>
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CS105 ALABAMA JUDICIAL DATA CENTER  
CASE ACTION SUMMARY CASE: CC 2005 000289.00  
IN THE CIRCUIT COURT OF LEE COUNTY JUDGE: JVD  
STATE OF ALABAMA VS MCLAURINE WILLIAM S

04/26/2005 TEXT MOTION FOR PERMISSION TO LEAVE STATE WHILE ON BON  
TEXT MOTION FOR TRIAL DE NOVO WITH JURY  
TEXT MOTION FOR A MORE DEFINITE STATEMENT  
TEXT MOTION FOR DISCOVERY  
TEXT MOTION FOR COUNSEL TO BE APPOINTED  
05/02/2005 TEXT COMPLAINT  
05/03/2005 TEXT NOTICE OF APPEAL TO CIRCUIT COURT/APPEAL BOND  
05/12/2005 JUDG ASSIGNED TO: (JVD) (AR01)  
COMM 4/25/05 NOTICE OF APPEAL/APD MC04-60431 (AR01)  
FILE CHARGE 01: OBSTRUCTING GOVT OPE/#CNTS: 001 (AR01)  
DAT3 SET FOR: ARRAIGNMENT ON 08/26/2005 AT 0900A (AR01)  
STAT INITIAL STATUS SET TO: "B" - BOND (AR01)  
FILE FILED ON: 05/12/2005 (AR01)  
ARRS DEFENDANT ARRESTED ON: 11/27/2004 (AR01)  
DAT4 SET FOR: TRIAL ON 09/12/2005 AT 0830A (AR10)  
CASU CASE ACTION SUMMARY PRINTED (AR08)  
ATTH CAS ATTACHMENT PRINTED (AR08)  
05/20/2005 TEXT ORDER GRANTING DEFT PERMISSION TO LEAVE STATE OF  
TEXT ALABAMA AND THE BOND CONTINUES IN EFFECT.  
05/25/2005 DAT2 SET FOR: MOTION ON 06/29/2005 AT 0900A (AR10)  
05/26/2005 ADD1 ADDR1 CHANGED FROM: 422 W MAGNOLIA AVE. (AR01)  
06/29/2005 TEXT ORDER DENYING MTN  
07/01/2005 TEXT DEFT'S WRITTN REQUEST FOR PRODUCTION OF INFO BY  
TEXT STATE  
07/13/2005 ATY1 ATTORNEY FOR DEFENDANT: THOMPSON PHILIP ALLEN (AR01)  
08/04/2005 ADD1 NOTICE TO CIRCUIT CLERK OF ADDRESS CHANGE  
08/08/2005 ADD1 ADDR1 CHANGED FROM: 549 E GLENN AVE APT 21 (AR01)  
08/09/2005 DOCK NOTICE SENT: 08/09/2005 DAVIDSON PATRICK C  
DOCK NOTICE SENT: 08/09/2005 THOMPSON PHILIP ALLEN  
DOCK NOTICE SENT: 08/09/2005 MCLAURINE WILLIAM S  
08/18/2005 CASU CASE ACTION SUMMARY PRINTED (AR08)  
08/22/2005 FESH FEE SHEET PRINTED (AR08)  
09/01/2005 TEXT PRODUCTION OF DOCUMENTS FOR IN CAMERA INSPECTION  
09/02/2005 TEXT ORDER SETTING HEARING ON 9/8/05 AT 9AM  
09/13/2005 DAT3 SET FOR: ARRAIGNMENT ON 11/17/2005 AT 0900A (AR10)  
DAT4 SET FOR: TRIAL ON 12/05/2005 AT 0830A (AR10)  
10/20/2005 TEXT SERVICE OF PHIL THOMPSON ON THAT DATE.  
TEXT REQUEST OF THE COURT CLERK-DEFT COMES PRO-SE  
TEXT IN THIS MATTER AS ON 10/18/05 HAVING TERMINATE  
TEXT DEFENDANT DEMAND A SPEEDY TRIAL  
TEXT MOTION TO COMPEL DISCOVERY  
TEXT MOTION TO PROCEED PRO SE (AR08)  
10/24/2005 FESH FEE SHEET PRINTED (AR08)  
10/25/2005 DOCK NOTICE SENT: 10/25/2005 THOMPSON PHILIP ALLEN  
DOCK NOTICE SENT: 10/25/2005 DAVIDSON PATRICK C  
DOCK NOTICE SENT: 10/25/2005 MCLAURINE WILLIAM S  
DOCK NOTICE SENT: 10/25/2005 THOMPSON PHILIP ALLEN  
DOCK NOTICE SENT: 10/25/2005 DAVIDSON PATRICK C  
DOCK NOTICE SENT: 10/25/2005 MCLAURINE WILLIAM S  
DOCK NOTICE SENT: 10/25/2005 THOMPSON PHILIP ALLEN  
DOCK NOTICE SENT: 10/25/2005 DAVIDSON PATRICK C  
DOCK NOTICE SENT: 10/25/2005 MCLAURINE WILLIAM S (AR08)  
FESH FEE SHEET PRINTED (AR08)  
CASU CASE ACTION SUMMARY PRINTED  
10/26/2005 TEXT MOTION FOR STATUS CONFERENCE  
TEXT MOTION TO WITHDRAW  
10/31/2005 TEXT ORDER GRANTING MOTION TO WITHDRAW AND SETTING FOR  
TEXT HEARING ON 11/4/05 AT 9AM  
11/01/2005 DAT2 SET FOR: MOTION ON 11/04/2005 AT 0900A (AR10)  
11/04/2005 TEXT ORDER CASE SET FOR DOCKET CALL ON 11/17/05 AND  
TEXT TRIAL ON 12/5/05.  
11/07/2005 TEXT NOTICE TO JUDGE DENSON  
11/17/2005 TEXT ORDER  
11/22/2005 TEXT MOTION TO DISMISS WITH PREJUDICE  
TEXT MTN TO DISMISS WITH PREJUDICE FOR FAILURE TO EST.  
TEXT REASONABLE SUSPICION &/OR PROBABLE CAUSE  
TEXT MTN TO DISMISS WITH PREJUDICE FOR MISCONDUCT OF

DCS105

ALABAMA JUDICIAL DATA CENTER  
CASE ACTION SUMMARY

CASE: CC 2005 000289.00

IN THE CIRCUIT COURT OF LEE COUNTY JUDGE: JVD

STATE OF ALABAMA VS MCLAURINE WILLIAM S

	TEXT	THE PLAINTIFF	
11/29/2005	TEXT	NOTICE OF DEFENSE	
	TEXT	INTERROGATORY TO THE COURT	
	TEXT	MOTION IN LIMITING	
12/02/2005	TEXT	ORDER	
12/05/2005	DAT2	SET FOR: STATUS CONF ON 03/21/2006 AT 0900A	(AR10)
	DAT4	SET FOR: TRIAL ON 05/01/2006 AT 0830A	(AR10)
03/28/2006	TEXT	ORDER-ALL OF DEFT'S PENDING MOTIONS AS OF THIS DAT	
	TEXT	ARE DENIED.	
04/20/2006	DAT2	SET FOR: DOCKET CALL ON 04/28/2006 AT 0900A	(AR10)
05/04/2006	DJID	DISPOSITION JUDGE ID CHANGED FROM:	TO: JVD
	DISP	CHARGE 01: OBSTRUCTING GOVT OP/#CNTS: 001	(AR10)
	DAT2	SET FOR: SENTENCING DKT/HE ON 05/25/2006 AT 0900A	
	DISP	CHARGE 01 DISPOSED BY: CONVICTED ON: 05/01/2006	
05/08/2006	TEXT	NOTICE OF APPEAL	
05/09/2006	APPL	CASE APPEALED ON: 05/08/2006	(AR10)
	APPL	APPEAL "TO" TYPE: "U"	(AR10)
	APDT	APPEAL DATE CHANGED FROM: 00/00/0000	(AR11)
	APTY	APPEAL TYPE CHANGED FROM:	(AR11)
	INTR	INDTRL TYPE CHANGED FROM:	(AR11)
	ATYW	ATYW TYPE CHANGED FROM:	(AR11)
	IRAO	IRA TYPE CHANGED FROM:	(AR11)
	PROS	PROSECUTOR CHANGED FROM:	(AR11)
	ATY1	ATTY 1 CHANGED FROM:	(AR11)
	ATY1	ATTY 1 TYPE CHANGED FROM:	(AR11)
05/10/2006	TRAN	TRANSMITTAL NOTICE SENT TO DEFENDANT	(AR09)
	ADD1	ADDR1 CHANGED FROM: 222 TICHENOR #4	(AR01)
	TRAN	TRANSMITTAL NOTICE SENT TO DEFENDANT	(AR09)
05/25/2006	TEXT	DEFT IS SENT 3MTHS IN THE LCDC, SUSP, AND PLACED	
	TEXT	ON 1YR UNSUPERVISED PROBATION; DEFT ASSESSED	
	TEXT	C/C, \$500 FINE AND \$25 VCF; CASE SET FOR REVIEW	
	TEXT	12/21/06 AT 9AM	
05/26/2006	CH01	DEFENDANT SENTENCED ON: 05/25/2006	(AR05)
	CH01	CVCC PROVISION ORDERED BY THE COURT	(AR05)
	CH01	HISTORY FEE PROVISION ORDERED BY THE COURT	(AR05)
	CH01	COST PROVISION ORDERED BY THE COURT	(AR05)
	CH01	SUSPENDED CONFINEMENT: 03 MONTHS	(AR05)
	CH01	TOTAL CONFINEMENT: 03 MONTHS	(AR05)
	CH01	FINE IMPOSED: \$500.00	(AR05)
	CH01	PROBATION OF: 01 YEARS	(AR05)
	CH01	SENTENCE TO BEGIN ON: 05/25/2006	(AR05)
	CH01	FINE PROVISION ORDERED BY THE COURT	(AR05)
	DAT2	SET FOR: REVIEW DOCKET/HEAR ON 12/21/2006 AT 0900A	
	DO01	ENFORCEMENT STATUS SET TO: "I"	(FE52)
	DO01	PAYMENT DUE DATE SET TO: 12/21/2006	(FE52)
	CRP1	COURT REPORTER 1 CHANGED FROM:	(AR11)
06/01/2006	TEXT	NOTICE OF APPEAL	
	TEXT	DOCKETING STATEMENT/REPORTER'S TRANSCRIPT ORDER	
06/09/2006	TEXT	NOTICE-APPELLANT HAS PAID \$100.00 DOCKET FEE	
06/27/2006	TEXT	MOTION FOR A NEW TRIAL	
	TEXT	MOTION FOR INCLUSION OF STATEMENT OF FACT INTO	
	TEXT	THE RECORD ON APPEAL BY THE DEFENDANT/APPELLANT	
	TEXT	AFFIDAVIT FOR INCLUSION IN THE RECORD ON APPEAL	
06/30/2006	TEXT	MTN TO STRIKE DEFT'S AFFIDAVIT FOR INCLUSION IN	
	TEXT	THE RECORD ON APPEAL	
07/10/2006	TEXT	MOTION TO STIKE DEFTS MOTION FOR NEW TRIAL	
	TEXT	MOTION TO STRIKE DEFTS "AFFIDAVIT FOR INCLUSION	
	TEXT	IN THE RECORD ON APPEAL	
	TEXT	SUPPLEMENT TO CITY'S PRIOR MOTION TO STRIKE DEFTS	
	TEXT	"AFFIDAVIT FOR INCLUSION IN THE RECORD ON APPEAL.	
07/13/2006	TEXT	NOTICE OF APPEARANCE	
07/14/2006	TEXT	ORDER SETTING VARIOUS POST-TRIAL MOTIONS FOR	
	DAT1	SET FOR: MOTIONS ON 08/17/2006 AT 0900A	(AR10)
	TEXT	HEARING ON 8/17/06 IMMEDIATELY FOLLOWING DOCKET	
	TEXT	CALL	
07/24/2006	ATY1	ATTY 1 CHANGED FROM: PRS001	(AR11)
	ATY1	ATTY 1 TYPE CHANGED FROM: S	(AR11)

\*\* REQUESTED BY: KAMALA HARDNETT ON: 07242006 AT: 14:58 \*\*



[illegible]





State of Alabama Unified Judicial System Form C-7 Rev. 2/79	<b>CASE ACTION SUMMARY CONTINUATION</b>	Case Number <u>CC-05-289</u>
		ID YR Number

Style: City of Auburn v. McLaurine Williams

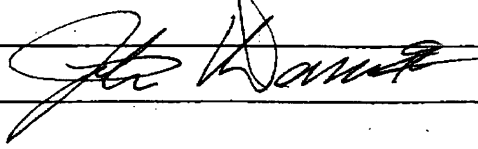
Page Number \_\_\_\_\_ of \_\_\_\_\_ Page

DATE	ACTIONS, JUDGMENTS, CASE NOTES
11/17/05	<input type="checkbox"/> Written plea of not guilty and waiver of arraignment filed. The Defendant is granted five days to file motions for special pleas. This case is set for docket call on <u>December 2, 2005 at 9:00 a.m.</u> This case is set for trial on the <u>December 5<sup>th</sup>, 2005 8:30 a.m./December 12, 2005 at 8:30 a.m.</u>
	<input type="checkbox"/> Defendant failed to appear. <b>DISMISSED AND REMANED TO THE MUNICIPAL COURT OF THE CITY OF AUBURN, ALABAMA</b>
	<input type="checkbox"/> It appearing to the Court that the Defendant is without and unable to employ counsel and upon Defendant's request, the Court appoints Hon. Phil Thompson, Attorney at law to represent the Defendant.
	<input type="checkbox"/> On this day the Defendant with his/her attorney, Hon. Phil Thompson. Makes application for Youthful Offender Treatment. Hearing on said Application is hereby set for <u>December 2, 2005 at 9:00 a.m.</u>
	<input type="checkbox"/> After hearing testimony and reviewing documents, said application for Youthful Offender is hereby _____
	<input type="checkbox"/> The Defendant in open court accompanied by attorney of record and being duly arraigned does plead not guilty. The Defendant is granted five days to file motions or special pleas. This case is set for trial on the <u>5th/12th</u> day of <u>December</u> , 2005, at 8:30 a.m. Docket call is set for the <u>2<sup>nd</sup></u> day of <u>December</u> , 2005, at 9:00 a.m. Pending trial Defendant is remain on present bond.

Trial set for December 5, 2005 at 8:30 amJohn W. [Signature]

12/2/05 Continued to next term of Appeals Court.  
Status Conference set for March 21, 2006  
at 9:00 am

State of Alabama Unified Judicial System Form C-7 Rev. 2/79	<b>CASE ACTION SUMMARY CONTINUATION</b>	Case Number CC-05-289  ID      YR      Number
Style:      STATE OF ALABAMA v. MCLAURINE, WILLIAM S.      Page Number      of      Page		
DATE	ACTIONS, JUDGMENTS, CASE NOTES	
09/02/05	Set for Hearing on September 8, 2005 at 9:00 a.m.	
9/8/05	Continued for trial to the next Auburn Appeals	
	Docket which is set for November 17, 2005 at	
	9:00 a.m. Trial dates for that docket have not	
	yet been determined	
11/4/05	Trial set for December 5, 2005 at 9:00	

State of Alabama Unified Judicial System Form C-7 Rev. 2/79	<b>CASE ACTION SUMMARY CONTINUATION</b>	Case Number <u>CC 05 289</u> ID YR Number
Style: <u>State of Alabama vs McLaurine, William S</u> Page Number <u>    </u> of <u>    </u> Pages		
DATE	ACTIONS, JUDGMENTS, CASE NOTES	
8/26/05		
	<input type="checkbox"/> Written plea of not guilty and waiver of arraignment filed. The Defendant is granted five days to file motions for special pleas. This case is set for docket call on <u>                    </u> . This case is set for trial on the <u>            </u> day of at 8:30 a.m.	
	<input type="checkbox"/> Defendant failed to appear. Writ issued. Hold without bond. Notify Court upon arrest.	
	<input type="checkbox"/> Not appearing to the Court that the Defendant is without and unable to employ counsel and upon Defendant's request, the Court appoints Hon. Attorney at law to represent the Defendant.	
	On this day the Defendant with his/her attorney, Hon. <u>                    </u> .	
	<input type="checkbox"/> Makes application for Youthful Offender Treatment. Hearing on said Application is hereby set for <u>                    </u> .	
	<input type="checkbox"/> After hearing testimony and reviewing documents, said application for Youthful Offender is hereby <u>                    </u> .	
	<input checked="" type="checkbox"/> The Defendant in open court accompanied by attorney of record and being duly arraigned does plead not guilty. The Defendant is granted five days to file motions or special pleas. This case is set for trial on the <u>12<sup>th</sup></u> day of <u>September</u> , at 8:30 a.m. Docket call is set for the <u>8<sup>th</sup></u> day of <u>September</u> , at 9:00 a.m. Pending trial Defendant is remanded to Jail/released on present bond.	
	<u>Philip Thompson was appointed earlier in this case</u>	
		

CS105 ALABAMA JUDICIAL DATA CENTER  
CASE ACTION SUMMARY  
FE: CC 2005 000289.00  
IN THE CIRCUIT COURT OF LEE COUNTY JUDGE: JVD

TATE OF ALABAMA VS MCLAURINE WILLIAM S

12/05/2005	DAT2	SET FOR: STATUS CONF ON 03/21/2006 AT 0900A (AR10)
	DAT4	SET FOR: TRIAL ON 05/01/2006 AT 0830A (AR10)
03/28/2006	TEXT	ORDER-ALL OF DEFT'S PENDING MOTIONS AS OF THIS DAT
	TEXT	ARE DENIED.
04/20/2006	DAT2	SET FOR: DOCKET CALL ON 04/28/2006 AT 0900A (AR10)
05/04/2006	DJID	DISPOSITION JUDGE ID CHANGED FROM: TO: JVD
	DISP	CHARGE 01: OBSTRUCTING GOVT OP/#CNTS: 001 (AR10)
	DAT2	SET FOR: SENTENCING DKT/HE ON 05/25/2006 AT 0900A
	DISP	CHARGE 01 DISPOSED BY: CONVICTED ON: 05/01/2006
05/08/2006	TEXT	NOTICE OF APPEAL
05/09/2006	APPL	CASE APPEALED ON: 05/08/2006 (AR10)
	APPL	APPEAL "TO" TYPE: "U" (AR10)
	APDT	APPEAL DATE CHANGED FROM: 00/00/0000 (AR11)
	APTY	APPEAL TYPE CHANGED FROM: (AR11)
	INTR	INDTRL TYPE CHANGED FROM: (AR11)
	ATYW	ATYW TYPE CHANGED FROM: (AR11)
	IRAO	IRA TYPE CHANGED FROM: (AR11)
	PROS	PROSECUTOR CHANGED FROM: (AR11)
	ATY1	ATTY 1 CHANGED FROM: (AR11)
	ATY1	ATTY 1 TYPE CHANGED FROM: (AR11)
05/10/2006	TRAN	TRANSMITTAL NOTICE SENT TO DEFENDANT (AR09)
	ADD1	ADDR1 CHANGED FROM: 222 TICHENOR #4 (AR01)
	TRAN	TRANSMITTAL NOTICE SENT TO DEFENDANT (AR09)
05/25/2006	TEXT	DEFT IS SENT 3MTHS IN THE LCDC, SUSP, AND PLACED
	TEXT	ON 1YR UNSUPERVISED PROBATION; DEFT ASSESSED
	TEXT	C/C, \$500 FINE AND \$25 VCF; CASE SET FOR REVIEW
	TEXT	12/21/06 AT 9AM
05/26/2006	CH01	DEFENDANT SENTENCED ON: 05/25/2006 (AR05)
	CH01	CVCC PROVISION ORDERED BY THE COURT (AR05)
	CH01	HISTORY FEE PROVISION ORDERED BY THE COURT (AR05)
	CH01	COST PROVISION ORDERED BY THE COURT (AR05)
	CH01	SUSPENDED CONFINEMENT: 03 MONTHS (AR05)
	CH01	TOTAL CONFINEMENT: 03 MONTHS (AR05)
	CH01	FINE IMPOSED: \$500.00 (AR05)
	CH01	PROBATION OF: 01 YEARS (AR05)
	CH01	SENTENCE TO BEGIN ON: 05/25/2006 (AR05)
	CH01	FINE PROVISION ORDERED BY THE COURT (AR05)
	DAT2	SET FOR: REVIEW DOCKET/HEAR ON 12/21/2006 AT 0900A
	D001	ENFORCEMENT STATUS SET TO: "I" (FE52)
	D001	PAYMENT DUE DATE SET TO: 12/21/2006 (FE52)

HARDNETT

05262006

OCS105

ALABAMA JUDICIAL DATA CENTER  
CASE ACTION SUMMARY

CASE: CC 2005 000289.00

IN THE CIRCUIT COURT OF LEE COUNTY

JUDGE: JVD

STATE OF ALABAMA VS MCLAURINE WILLIAM S

04/26/2005	TEXT	MOTION FOR PERMISSION TO LEAVE STATE WHILE ON BON	
	TEXT	MOTION FOR TRIAL DE NOVO WITH JURY	
	TEXT	MOTION FOR A MORE DEFINITE STATEMENT	
	TEXT	MOTION FOR DISCOVERY	
	TEXT	MOTION FOR COUNSEL TO BE APPOINTED	
05/12/2005	JUDG	ASSIGNED TO: (JVD)	(AR01)
	COMM	4/25/05 NOTICE OF APPEAL/APD MC04-60431	(AR01)
	FILE	CHARGE 01: OBSTRUCTING GOVT OPE/#CNTS: 001	(AR01)
	DAT3	SET FOR: ARRAIGNMENT ON 08/26/2005 AT 0900A	(AR01)
	STAT	INITIAL STATUS SET TO: "B" - BOND	(AR01)
	FILE	FILED ON: 05/12/2005	(AR01)
	ARRS	DEFENDANT ARRESTED ON: 11/27/2004	(AR01)
	DAT4	SET FOR: TRIAL ON 09/12/2005 AT 0830A	(AR10)
	CASU	CASE ACTION SUMMARY PRINTED	(AR08)
	ATTH	CAS ATTACHMENT PRINTED	(AR08)
05/20/2005	TEXT	ORDER GRANTING DEFT PERMISSION TO LEAVE STATE OF	
	TEXT	ALABAMA AND THE BOND CONTINUES IN EFFECT.	
05/25/2005	DAT2	SET FOR: MOTION ON 06/29/2005 AT 0900A	(AR10)
05/26/2005	ADD1	ADD1 CHANGED FROM: 422 W MAGNOLIA AVE.	(AR01)
06/29/2005	TEXT	ORDER DENYING MTN	
07/01/2005	TEXT	DEFT'S WRITTN REQUEST FOR PRODUCTION OF INFO BY	
	TEXT	STATE	
07/13/2005	ATY1	ATTORNEY FOR DEFENDANT: THOMPSON PHILIP ALLE	(AR01)
08/08/2005	ADD1	ADD1 CHANGED FROM: 549 E GLENN AVE APT 21	(AR01)
08/09/2005	DOCK	NOTICE SENT: 08/09/2005 DAVIDSON PATRICK C	
	DOCK	NOTICE SENT: 08/09/2005 THOMPSON PHILIP ALLEN	
	DOCK	NOTICE SENT: 08/09/2005 MCLAURINE WILLIAM S	
08/18/2005	CASU	CASE ACTION SUMMARY PRINTED	(AR08)
08/22/2005	FESH	FEE SHEET PRINTED	(AR08)
08/31/2005	TEXT	PRODUCTION OF DOCUMENTS FOR IN CAMERA INSPECTION	
09/02/2005	TEXT	ORDER SETTING HEARING ON 9/8/05 AT 9AM	
09/13/2005	DAT3	SET FOR: ARRAIGNMENT ON 11/17/2005 AT 0900A	(AR10)
	DAT4	SET FOR: TRIAL ON 12/05/2005 AT 0830A	(AR10)
10/20/2005	TEXT	SERVICE OF PHIL THOMPSON ON THAT DATE.	
	TEXT	REQUEST OF THE COURT CLERK-DEFT COMES PRO-SE	
	TEXT	IN THIS MATTER AS ON 10/18/05 HAVING TERMINATE	
	TEXT	DEFENDANT DEMAND A SPEEDY TRIAL	
	TEXT	MOTION TO COMPEL DISCOVERY	
	TEXT	MOTION TO PROCEED PRO SE	
10/24/2005	FESH	FEE SHEET PRINTED	(AR08)
10/25/2005	DOCK	NOTICE SENT: 10/25/2005 THOMPSON PHILIP ALLEN	
	DOCK	NOTICE SENT: 10/25/2005 DAVIDSON PATRICK C	
	DOCK	NOTICE SENT: 10/25/2005 MCLAURINE WILLIAM S	
	DOCK	NOTICE SENT: 10/25/2005 THOMPSON PHILIP ALLEN	
	DOCK	NOTICE SENT: 10/25/2005 DAVIDSON PATRICK C	
	DOCK	NOTICE SENT: 10/25/2005 MCLAURINE WILLIAM S	
	DOCK	NOTICE SENT: 10/25/2005 THOMPSON PHILIP ALLEN	
	DOCK	NOTICE SENT: 10/25/2005 DAVIDSON PATRICK C	
	DOCK	NOTICE SENT: 10/25/2005 MCLAURINE WILLIAM S	
	FESH	FEE SHEET PRINTED	(AR08)
	CASU	CASE ACTION SUMMARY PRINTED	(AR08)
10/26/2005	TEXT	MOTION FOR STATUS CONFERENCE	
	TEXT	MOTION TO WITHDRAW	
10/31/2005	TEXT	ORDER GRANTING MOTION TO WITHDRAW AND SETTING FOR	
	TEXT	HEARING ON 11/4/05 AT 9AM	
11/01/2005	DAT2	SET FOR: MOTION ON 11/04/2005 AT 0900A	(AR10)
11/04/2005	TEXT	ORDER CASE SET FOR DOCKET CALL ON 11/17/05 AND	
	TEXT	TRIAL ON 12/5/05.	
11/17/2005	TEXT	ORDER	
11/22/2005	TEXT	MOTION TO DISMISS WITH PREJUDICE	
	TEXT	MTN TO DISMISS WITH PREJUDICE FOR FAILURE TO EST.	
	TEXT	REASONABLE SUSPICION &/OR PROBABLE CAUSE	
	TEXT	MTN TO DISMISS WITH PREJUDICE FOR MISCONDUCT OF	
	TEXT	THE PLAINTIFF	
11/29/2005	TEXT	NOTICE OF DEFENSE	
	TEXT	INTERROGATORY TO THE COURT	
	TEXT	MOTION IN LIMITING	



DOB: 02/14/1972 SEX: M RACE: W HT: 0 00 WT: 000 HR: EYES:  
SSN: 257372944 ALIAS NAMES: -----

TRANS DATE	ACTIONS, JUDGEMENTS, AND NOTES	
05/25/2005	SET FOR: MOTION ON 06/29/2005 AT 0900A (AR10)	KAH
05/26/2005	ADDR1 CHANGED FROM: 422 W MAGNOLIA AVE. (AR01)	DOA
06/29/2005	ORDER DENYING MTN	LEW
07/01/2005	DEFT'S WRITTN REQUEST FOR PRODUCTION OF INFO BY	KAH
07/01/2005	STATE	KAH
07/13/2005	ATTORNEY FOR DEFENDANT: THOMPSON PHILIP ALLE (AR01)	KAH
08/08/2005	ADDR1 CHANGED FROM: 549 E GLENN AVE APT 21 (AR01)	KAH
08/09/2005	NOTICE SENT: 08/09/2005 DAVIDSON PATRICK C	KAH
08/09/2005	NOTICE SENT: 08/09/2005 THOMPSON PHILIP ALLEN	KAH
08/09/2005	NOTICE SENT: 08/09/2005 MCLAURINE WILLIAM S	KAH
08/18/2005	CASE ACTION SUMMARY PRINTED (AR08)	KAH
08/22/2005	FEE SHEET PRINTED (AR08)	KAH
08/31/2005	PRODUCTION OF DOCUMENTS FOR IN CAMERA INSPECTION	KAH
09/02/2005	ORDER SETTING HEARING ON 9/8/05 AT 9AM	KAH
09/13/2005	SET FOR: ARRAIGNMENT ON 11/17/2005 AT 0900A (AR10)	KAH
09/13/2005	SET FOR: TRIAL ON 12/05/2005 AT 0830A (AR10)	KAH
10/20/2005	SERVICE OF PHIL THOMPSON ON THAT DATE.	KAH
10/20/2005	REQUEST OF THE COURT CLERK-DEFT COMES PRO-SE	KAH
10/20/2005	IN THIS MATTER AS ON 10/18/05 HAVING TERMINATE	KAH
10/20/2005	DEFENDANT DEMAND A SPEEDY TRIAL	KAH
10/20/2005	MOTION TO COMPEL DISCOVERY	KAH
10/20/2005	MOTION TO PROCEED PRO SE	KAH
10/24/2005	FEE SHEET PRINTED (AR08)	KAH
10/25/2005	FEE SHEET PRINTED (AR08)	KAH
10/25/2005	CASE ACTION SUMMARY PRINTED (AR08)	KAH

ACR0370 ALABAMA JUDICIAL INFORMATION SYSTEM CASE: CC 2005 000289.00  
 OPER: KAH CASE ACTION SUMMARY  
 SE: 1 CIRCUIT CRIMINAL RUN DATE: 05/12/2005  
 IN THE CIRCUIT COURT OF LEE JUDGE: JVD

CITY OF AUBURN VS MCLAURINE WILLIAM S  
 422 W MAGNOLIA AVE.  
 CASE: CC 2005 000289.00 AUBURN, AL 36830 0000

DOB: 02/14/1972 SEX: M RACE: W HT: 0 00 WT: 000 HR: EYES:  
 SSN: 257372944 ALIAS NAMES:

CHARGED1: OBSTRUCTING GOVT OPE CODE01: OGOB LIT: OBSTRUCTING GO TYP: M #: 001  
 OFFENSE DATE: AGENCY/OFFICER: 0430100

DATE WAR/CAP ISS: DATE ARRESTED: 11/27/2004  
 DATE INDICTED: DATE FILED: 05/12/2005  
 DATE RELEASED: DATE HEARING:  
 BOND AMOUNT: \$.00 SURETIES:

DATE 1: DESC: TIME: 0000  
 DATE 2: DESC: TIME: 0000

TRACKING NOS:

DEF/ATY:

TYPE:

TYPE:

00000

00000

PROSECUTOR: DAVIDSON PATRICK C

CH CSE: 000000000000 CHK/TICKET NO: MC04-60431 GRAND JURY:  
 COURT REPORTER: SID NO: 000000000  
 DEF STATUS: BOND DEMAND: Y OPER: KAH

TRANS DATE	ACTIONS, JUDGEMENTS, AND NOTES	OPE
04/26/2005	MOTION FOR PERMISSION TO LEAVE STATE WHILE ON BON	KAH
04/26/2005	MOTION FOR TRIAL DE NOVO WITH JURY	KAH
04/26/2005	MOTION FOR A MORE DEFINITE STATEMENT	KAH
04/26/2005	MOTION FOR DISCOVERY	KAH
04/26/2005	MOTION FOR COUNSEL TO BE APPOINTED	KAH
05/12/2005	ASSIGNED TO: (JVD) (AR01)	KAH
05/12/2005	4/25/05 NOTICE OF APPEAL/APD MC04-60431 (AR01)	KAH
05/12/2005	CHARGE 01: OBSTRUCTING GOVT OPE/#CNTS: 001 (AR01)	KAH
05/12/2005	SET FOR: ARRAIGNMENT ON 08/26/2005 AT 0900A (AR01)	KAH
05/12/2005	INITIAL STATUS SET TO: "B" - BOND (AR01)	KAH
05/12/2005	FILED ON: 05/12/2005 (AR01)	KAH
05/12/2005	DEFENDANT ARRESTED ON: 11/27/2004 (AR01)	KAH
05/12/2005	SET FOR: TRIAL ON 09/12/2005 AT 0830A (AR10)	KAH
05/12/2005	CASE ACTION SUMMARY PRINTED (AR08)	KAH

5/20/05 Hearing on various Motions set for June 29, 05  
 at 9:00 a.m.

FILED IN OFFICE JUN 29 2005



IN THE CIRCUIT COURT OF LEE COUNTY, ALABAMA  
CRIMINAL DIVISION

THE CITY OF AUBURN, ALABAMA,  
A Municipal Corporation,

Plaintiff,

vs.

WILLIAM S. MCLAURINE,

Defendant.

FILED  
MAY 02 2005

IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK

APPEALED FROM  
RECORDER'S COURT  
OF THE CITY OF  
AUBURN, ALABAMA,  
CASE NO.: \_\_\_\_\_

COMPLAINT

COMES now THE CITY OF AUBURN, ALABAMA, a municipal corporation of the State of Alabama, by its undersigned attorney, and complains that the said Defendant, WILLIAM S. MCLAURINE, within twelve (12) months before the beginning of the prosecution of this cause within the City Limits of the City of Auburn, or the Police Jurisdiction thereof, by means of intimidation, physical force or interference, or by any other independently unlawful act, did intentionally obstruct, impair or hinder the administration of law or other governmental function, or did intentionally prevent a public servant from performing a governmental function, in violation of § 13A-10-2 of the Code of Alabama (1975), as amended, and as adopted by Ordinance No. 1130 as adopted by the City Council of the City of Auburn. Said Ordinance is codified in § 13-1 of the Code of Auburn, Alabama.

ADAMS, UMBACH, DAVIDSON & WHITE

BY: \_\_\_\_\_

MATTHEW W. WHITE (WHI086)

Post Office Box 2069

Opelika, AL 36803-2069

(334) 745-6466

Attorneys for the City of Auburn

MC-16 (back) Rev. 1/96	<b>NOTICE OF APPEAL TO CIRCUIT COURT</b> Municipal Ordinance Violation	Case Number <b>MC04-0060431</b>
------------------------	---	------------------------------------

**APPEAL BOND**

I, WILLIAM S MCLAURINE (Defendant), as principal, and  
 I(We), (please print) Alabama Bonding Company, as surety(ies), agree to  
 pay the Municipality of AUBURN, Alabama, the sum of \$ \$500.00  
 (not to exceed \$1,000 or twice the amount of fine and costs) and all costs incurred in this Court and on appeal in  
 this Court unless the above named Defendant appears before the circuit court on the scheduled date and from time  
 to time thereafter until discharged by law to answer this charge of OBSTRUCTING GOVERNMENTAL OPERATIONS  
 , or any other charge as authorized by law.

We hereby severally certify that we have property valued over and above all debts and liabilities that have a fair  
 market value equal to or greater than the amount of the above bond and we, and each of us, waive the benefits of  
 all laws exempting property from levy and sale under execution or other process for the collection of debt by the  
 Constitution and laws of the State of Alabama, and we especially waive or rights to claim exempt our wages or  
 salary, that we have under the laws of Alabama and our rights to homestead exemptions that we have under the  
 Constitution of Alabama and the laws of the State of Alabama, as set out in a separate writing.

It is further agreed and understood that this is a continuing bond which shall remain in full force and effect until  
 such time as the undersigned are duly exonerated.

Signed and sealed this date with notice that false statements are punishable as perjury.

Date: April 20th, 2005 \_\_\_\_\_ (L.S.)  
 \_\_\_\_\_  
 Signature of Defendant

422 W MAGNOLIA AVE AUBURN AL 36830 AL 5732382  
 Address City State Zip Code Drivers License # Telephone Number

**AFFIDAVIT OF SURETY(IES)**

In addition to the statements made above, I(We), the undersigned Surety(ies), hereby certify [that I(we) are not  
 an] attorney(s), [a] judicial official(s), or [a] person(s) authorized to take bail and] \* that I(we) own property in this  
 state that has a fair market value equal to or greater than the amount of the appeal bond in this cause, exclusive of  
 property exempt from execution and above and over all liabilities, including the amount of all other outstanding  
 appeal bonds entered into by me(us). [If the surety's(ies) property is valued at less than the amount of the bond  
 and is to be aggregated with the property of other sureties, state the value of the surety(ies) property exclusive of  
 liabilities and exemptions].

SURETY NUMBER 1: Property\*\* \_\_\_\_\_  
 Exemptions and Liabilities\*\* \_\_\_\_\_

Other Outstanding Surety Bonds: Number \_\_\_\_\_ Aggregate Amount: \$ \_\_\_\_\_

Alabama Bonding By Wanda Lynn (L.S.)  
 Surety's Name (Print) Social Security Number Signature of Surety  
P.O. Box 2525 Ogelita AL 36803 7452822  
 Surety's Address City State Zip Code Telephone Number

\* Does not apply: Immediate Family Member. Specify Relationship \_\_\_\_\_  
 \*\* Attach a separate sheet if necessary

FILED

MAR - 3 2005

SURETY NUMBER 2: Property\*\* \_\_\_\_\_  
 Exemptions and Liabilities\*\* \_\_\_\_\_

Other Outstanding Surety Bonds: Number \_\_\_\_\_ Aggregate Amount: \$ \_\_\_\_\_

\_\_\_\_\_  
 Surety's Name (Print) Social Security Number Signature of Surety (L.S.)

\_\_\_\_\_  
 Surety's Address City State Zip Code Telephone Number

\* Does not apply: Immediate Family Member. Specify Relationship \_\_\_\_\_  
 \*\* Attach a separate sheet if necessary

Bond ☒ APPROVED ☐ WAIVED  
 this the 26 day of April, 2005  
2159764  
 Signature

PHOTOCOPY OF AN ORIGINAL DOCUMENT

State of Alabama Unified Judicial System Form MC-16 (front) Rev. 1/96	<b>NOTICE OF APPEAL TO CIRCUIT COURT</b> <b>Municipal Ordinance Violation</b>	Case Number MC04-0060431
---	--	-----------------------------

STATE OF ALABAMA ☐ IN THE DISTRICT COURT OF \_\_\_\_\_ COUNTY  
 THE MUNICIPALITY OF \_\_\_\_\_  
AUBURN ☒ IN THE MUNICIPAL COURT OF \_\_\_\_\_, ALABAMA  
 v. \_\_\_\_\_  
WILLIAM S MCLAURINE  
 DEFENDANT

DATE OF JUDGEMENT: April 20th, 2005  
 DATE OF DENIAL OF POST JUDGEMENT MOTION: \_\_\_\_\_

Notice is hereby given that the above named defendant appeals for trial de novo to the Circuit Court of  
LEE County, Alabama, from final judgement of conviction in this  
 Court adjudging the defendant to be guilty of the offense of \_\_\_\_\_  
**OBSTRUCTING GOVERNMENTAL OPERATIONS**

☐ TRIAL WITHOUT JURY ☒ DEFENDANT DEMANDS TRIAL BY JURY  
4-25-05 [Signature]  
 Date Signature of Defendant/Attorney

Name of Attorney \_\_\_\_\_ Attorney's Telephone Number \_\_\_\_\_  
 Address of Attorney \_\_\_\_\_

---

**CERTIFICATION ON RECORD ON APPEAL TO CIRCUIT COURT AND COST BILL**

I, the undersigned Clerk of the above court, do hereby certify that on the 20th day of April,  
2005, the defendant, WILLIAM S MCLAURINE, was convicted in this Court of the  
 offense of OBSTRUCTING GOVERNMENTAL OPERATIONS and was sentenced as  
 follows: Fine \$ \$100.00, Court Cost \$ \$125.00, Restitution \$ \_\_\_\_\_ for \_\_\_\_\_  
 \_\_\_\_\_, such amounts being due and payable to the court, sentenced to \_\_\_\_\_  
☐ days ☐ months in jail, other \_\_\_\_\_; and that on  
 the 25th day of April, 2005, the defendant gave Notice of Appeal to the Circuit Court of  
LEE County. I do further certify the following documents annexed hereto are all the records  
 of the proceedings which are in my possession:

Original Charging Instrument:  
☐ Copy of Municipal Ordinance, if Applicable ☒ Appeal Bond/Affidavit of Sureties (See back of form)  
☒ Non-Traffic Complaint ☐ Driver History Record  
☐ UTC (# \_\_\_\_\_) ☒ Case Action Summary/Record of Disposition Signed  
☐ Warrant of Arrest by Judge Showing Judgement and Sentence of Court  
☐ Other: \_\_\_\_\_

APRIL 25th, 2005  
 Date

Katie Cox  
☒ Municipal Court Clerk ☐ District Court Clerk

**FILED**  
**MAY - 3 2005**  
**CORINNE T. HURST**  
**CIRCUIT CLERK**

NOTE: THE ORIGINAL AND COPIES OF THIS NOTICE OF APPEAL MUST BE STAMPED IMMEDIATELY UPON RECEIPT

Filed in this office on this \_\_\_\_\_  
 I CERTIFY THIS TO BE A VALID  
 PHOTOCOPY OF AN ORIGINAL DOCUMENT.

ORIGINAL: Circuit Court COPY: Lower Court COPY: Defendant  
[Signature]  
 15 2/28/06

CME  
CASE ACTION SUMMARY

Case # MC04-0060431 OPEN

Court Date: Thu Feb 17, 2005, 08:00 AM

Printed: Sun Nov 28, 2004 8:34 am

Page #1

Defendant		Employer	
WILLIAM S MCLAURINE 422 W MAGNOLIA AVE AUBURN AL 36830		Sex: M Race: WHITE/MEX. DOB: 1972-02-14 SSN: 257-37-2944	
Charge		Complainant	
Charge: OBSTRUCTING GOVERNMENTAL OPERATIONS Section/Paragraph: 13A-10-0002		CITY OF AUBURN 141 N ROSS ST AUBURN AL 36830 (334) 501-3180	
Sureties		Witnesses	
Arrest			
Arrest Date: 2004-11-27 Arresting Officer: BEAN, LAVARRO			
Disposition/Notice History			
3-31-05: <span style="border: 1px solid black; padding: 2px;">atty waived</span>			
Bench Notes			
2-17-05: Chg. amended to violation of Section 13A-10-2(a) 1 & 2 per authority § 15-5-30. 4-20-05			
On _____ the defendant appears in open court in person and pleads <u>not guilty</u> . After hearing the evidence it is the judgement of the court that defendant is <u>guilty</u> and is fined <u>100</u> together with <u>125</u> cost and _____ restitution to the victim and sentenced to _____ days in _____ jail. Defendant to pay _____ per day for housing and maintenance plus actual medical expenses incurred during the period of incarceration. Defendant is given _____ days credit for time already served in jail on this charge. Additional orders: <u>90 dtp</u>			
[ ] _____ per day for _____ days incarcerated (housing and maintenance) Total _____; plus actual medical expenses incurred on behalf of the defendant. <span style="float: right;">Judge Municipal Court</span>			
Payments			
DATE PAID	RECEIPT #	AMOUNT PAID	METHOD BALANCE
I CERTIFY THIS TO BE A VALID PHOTOCOPY OF AN ORIGINAL DOCUMENT. <u>Allie Kate Cox</u> <u>2/28/06</u>			

**MOTION FOR TRIAL DE NOVO  
WITH JURY**

CITY OF AUBURN,

Plaintiff,

v.

WILLIAM S. McLAURINE

Defendant

Action No(s): MC04-0060431  
04015246

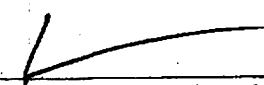
STATE OF ALABAMA  
In the Circuit Court  
of Lee County

This is an appeal from the Municipal Court of Auburn to the Lee County Circuit Court. The defendant was tried on March 31, 2005 and found guilty on April 20, 2005 of Obstructing Government Operations. The defendant request Trial de Novo with Jury as per rules 2.2(d), 30.1, and 18.1 of the Alabama Rules of Criminal Procedure.

Rules 2.2(d), 30.1, 18.1

April 25, 2005

Date

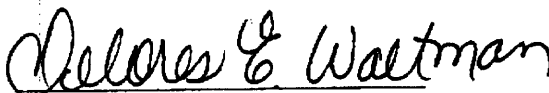
  
William McLaurine, defendant  
549 East Glenn #21  
Auburn, Alabama

I Certify that this document was mailed to the following address on April 25, 2005.

Lee County Circuit Court Clerk  
2311 Gateway Drive Room 104  
Opelika, AL 36801

April 25, 2005

Date

  
Delores Waltman, Public Notary  
233 West Glenn  
Auburn, AL 36830

DELORES E. WALTMAN  
Notary Public, AL State at Large  
My Comm. Expires Feb. 25, 2008

**MOTION FOR PERMISSION  
TO LEAVE STATE WHILE ON BOND**

CITY OF AUBURN,

Plaintiff,

v.

WILLIAM S. McLAURINE

Defendant

Action No(s): MC04-0060431  
04015246

STATE OF ALABAMA  
In the Circuit Court  
of Lee County

**FILED**

APR 26 2005

IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK

This is request of the court that the defendant be allowed to leave the state of Alabama while on Bond in this matter for personal and professional reasons. The defendant has family members and professional activities to attend to in other states. The defendant was not assessed any terms of confinement in the original municipal judicial proceeding.

Rule 7.3(a)(1)(a)

April 26, 2005  
Date

William McLaurine, defendant  
549 East Glenn #21  
Auburn, Alabama

**MOTION FOR TRIAL DE NOVO  
WITH JURY**

CITY OF AUBURN,

Plaintiff,

v.

WILLIAM S. McLAURINE

Defendant

Action No(s): MC04-0060431  
04015246

STATE OF ALABAMA  
In the Circuit Court  
of Lee County

**FILED**  
APR 26 2005


IN OFFICE  
CORINNE T. HURST  
Circuit Clerk

This is a notice of appeal from the Municipal Court of Auburn to the Lee County Circuit Court. Similar notices and an appearance bond were filed with the Court Clerk of Auburn, Alabama on April 25, 2005. The defendant was tried on March 31, 2005 and found guilty on April 20, 2005 of Obstructing Government Operations. The defendant request Trial de Novo with Jury as per rules 2.2(d), 30.1, and 18.1 of the Alabama Rules of Criminal Procedure.

Rules 2.2(d), 30.1, 18.1

April 26, 2005

Date

  
William McLaurine, defendant  
549 East Glenn #21  
Auburn, Alabama

**MOTION FOR A MORE  
DEFINITIVE STATEMENT**

CITY OF AUBURN,

Plaintiff,

v.

WILLIAM S. McLAURINE

Defendant

Action No(s): MC04-0060431  
04015246

STATE OF ALABAMA  
In the Circuit Court  
of Lee County

**FILED**  
APR 26 2005

IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK

This is a motion for a More Definitive statement, as allowed under rule 13.2(e) of the Alabama Rules of Criminal Procedure.

**THE GROUNDS FOR THIS MOTION ARE AS FOLLOWS:**

The information presented in discovery in this matter contains the charge of "obstructing government operations," 13A-10-2. This statute references other statutes, rules, regulations, and provisions that have not been included in information as required by rule 13.2(b). For this reason the charge is unclear and requires a more definitive statement of the charge as provided for by rule 13.2(e).

By inference, statute 15-5-30 is assumed to be part of this charge, but the provisions of 13.2(a) requiring "ordinary language" be used in a "plain, concise statement of the charge," to the "degree of certainty which will enable the court, upon conviction, to pronounce the proper judgment," have not been met. The specific facts that will enable the "reasonable suspicion" provision of 15-5-30 have not been defined.

Without the requested information the defendant cannot prepare a proper defense.

WHEREFORE, the defendant requests that the prosecution be ordered to provide the following information, as per rule 13.2(e):




- 1) All the statutes, rules or other provisions of "government operations" that where affected by the alleged actions of the defendant in this matter that constitute grounds for criminal trial under the statute, 13A-10-2, that the defendant is charged with.
- 2) The specific grounds that enable the "reasonable suspicion" provision of statute 15-5-30, necessary to the "statement of facts" to the "degree of certainty which will enable the court, upon conviction, to pronounce proper judgment."

Rules 13.2(a), 13.2(b), 13.2(e)

April 26, 2005

Date

  
\_\_\_\_\_  
William McLaurine, defendant  
549 East Glenn #21  
Auburn, Alabama

**MOTION FOR DISCOVERY**

CITY OF AUBURN,

Plaintiff,

v.

WILLIAM S. McLAURINE

Defendant

Action No(s): MC04-0060431  
04015246STATE OF ALABAMA  
In the Circuit Court  
of Lee County**FILED**

APR 26 2005

IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK


The defendant requests that this court issue an order requiring the prosecuting attorney to produce and permit the defense to inspect and copy or photograph, items in possession, custody or control of the State and/or City, pursuant to Rule 16.1 (c) of the Alabama Rules of Criminal Procedure, pertaining to this matter, including but not limited to the following:

- 1) Written reports and/or documents relevant to the case.
- 2) Transcripts, reports, Audio and/or Visual recordings made by Auburn Municipal Authorities concerning the complaint or compliants responsible for initiating officer Lavarro Bean's contact with the defendant on or about November 27, 2004.
- 3) Transcripts, reports, Audio and/or Visual recordings made by Auburn Municipal Authorities concerning the defendant and all participating municipal agents.
- 4) Transcripts, Audio and/or Visual recordings made or used during the Municipal trial in that matter, including, but not limited to, the transcripts of the court reporter that was present at that trial.

Each of the items sought to be discovered is properly discoverable under Rule 16 of the Alabama Rules of Criminal Procedure.

Rules 16.1 (c)

April 26, 2005  
Date

  
\_\_\_\_\_  
William McLaurine, defendant  
549 East Glenn #21  
Auburn, Alabama

**MOTION FOR COUNSEL  
TO BE APPOINTED**

CITY OF AUBURN,

Plaintiff,

v.

WILLIAM S. McLAURINE

Defendant

Action No(s): MC04-0060431  
04015246

STATE OF ALABAMA  
In the Circuit Court  
of Lee County

**FILED**  
APR 26 2005

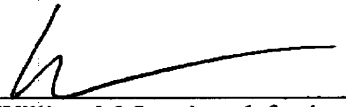
IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK

After this court has considered the other four motions filed by the defendant on this day, of April 26, 2005, which are "MOTION FOR TRIAL DE NOVO WITH JURY", "MOTION FOR DISCOVERY", "MOTION FOR A MORE DEFINITIVE STATEMENT," and "MOTION FOR PERMISSION TO LEAVE THE STATE WHILE ON BOND", the defendant requests the counsel be appointed as per rule 6.1(a) of the Alabama Rules of Criminal Procedure. The defendant states that he qualifies for the appointment of counsel as rules 6.1(a) and 6.3(a) and will provide any information on financial assets required by the court as rule 6.3(b). The defendant request expediency in ruling as the defense has several other pretrial motions to prepare that will require the assistance of counsel.

Rules 6.1(a), 6.3(a), 6.3(b)

April 26, 2005

Date

  
William McLaurine, defendant  
(334) 524-2175  
549 East Glenn #21  
Auburn, Alabama

## IN THE CIRCUIT COURT OF LEE COUNTY, ALABAMA

CITY OF AUBURN,

Plaintiff,

vs.

WILLIAM S. MCLAURINE,

Defendant.

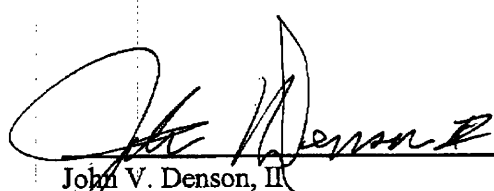
CASE NUMBER: CC-05-289

ORDER

This matter is before the Court on a Petition of the Defendant, William S. McLaurine, to leave the state while on bond pending appeal of his case from the Municipal Court of the City of Auburn, Alabama to the Circuit Court of Lee County. The file reflects that he is out on bond with Alabama Bonding in the amount of \$500.00. The prosecuting attorney, Mr. Matt White, has no objection to granting permission to leave the State of Alabama pending the appeal and the trial of the case which will be set in August, 2005. Accordingly, permission is hereby GRANTED to the Defendant to leave the State of Alabama and the bond continues in effect. Defendant shall keep Mr. Matthew White and his bonding company informed of his phone number and address at all times prior to trial.

Numerous motions filed by the Defendant on April 26, 2005 are hereby set for Hearing on June 29, 2005 at 9:00 a.m. in courtroom number four of the Lee County Justice Center.

DONE this the 20<sup>th</sup> day of May, 2005.

  
 John V. Denson, II  
 Circuit Judge

cc: William S. McLaurine  
 Matthew W. White  
 Alabama Bonding

FILED

MAY 20 2005

 IN OFFICE  
 CORINNE T. HURST  
 CIRCUIT CLERK

IN THE CIRCUIT COURT OF LEE COUNTY, ALABAMA

CITY OF AUBURN,

Plaintiff,

vs.

WILLIAM S. MCLAURINE,

Defendant.

CASE NUMBER: CC-05-289

FILED  
JUN 29 2005

ORDER

IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK

This matter is before the Court on various Motions filed by the Defendant, William S. McLaurine, including a Motion for Trial de Novo with Jury, Motion for Discovery, Motion for More Definite Statement and a Motion to Have Counsel Appointed for Defendant, as he alleges he is indigent. The Defendant had previously filed a Motion for Permission to Leave the State while on bond, which was granted by this Court on May 20, 2005. The Defendant is out on bond.

Appearing at this time for the City of Auburn, Alabama are Mr. Matt White and Mr. Rick Davison. The Defendant appears Pro Se.

The first matter was that the Defendant requested a transcript of this Hearing and the City of Auburn stated that they would like for the Court Reporter to take down the testimony of the Hearing but they did not know if they would request that it actually be put in transcript form. It was agreed that Judge Walker's Court Reporter would take the Hearing today and if either party requested that it be made into a written transcript, the party requesting the same would bear the costs.

The next matter related to matters of discovery raised by the Defendant's Motions. The City of Auburn stated that they had not received copies of any of the Motions and there is no certificate of service on the Motions. The Defendant represented that he was informed by the Clerk that copies could be placed in the respective mail boxes in the Clerk's office, but

apparently the Motions were not received by the City of Auburn. Nevertheless, the City of Auburn agreed to proceed with the Motions and it was agreed that the City of Auburn would produce all matters that the Defendant is entitled to under the Rules of Evidence. It was specifically mentioned that the Defendant requested a copy of the disc or evidence of the telephone conversation between the arresting officer and the dispatcher on the date of his arrest. The City of Auburn agreed to produce the evidence they have of this call. Furthermore, the Defendant requested any reports or documentary evidence of "prior criminal activity" in the area in which he was arrested, which was a matter raised at the trial in the City Court of Auburn. The City of Auburn agreed to produce any written reports in Beat 3, which includes the area of arrest for one week prior to the arrest and up to the point of time of the arrest.


The next matter related to the Motion for a More Definite Statement. After argument from the Defendant and the City of Auburn, the Court concludes that the City has sufficiently informed the Defendant by their written Complaint and the Defendant is fully aware from the prior trial of the exact nature of the charge against him, failure to properly identify himself to the officer as set out in the Complaint on file. Therefore, the Motion for More Definite Statement is DENIED.

The final matter related to appointment of counsel. The Defendant was placed under oath and testified that he has two engineering degrees from Auburn University. However, he has difficulty being employed due to the fact that he suffers from epilepsys and cannot drive a car, and is forced thereby to take jobs only where transportation is publically provided. He states that his total income since January 1, 2005, up to the present time is \$2,000. He has a temporary job remodeling bathrooms with a Mr. Stark. He has no assets and has borrowed extensively from his father in order to come back to Auburn to get another degree. The Court finds that based upon the sworn testimony of the Defendant that he is, in fact, indigent and therefore entitled to appointment of counsel as the charge against him includes a maximum penalty of a one year

sentence. The Court hereby appoints Mr. Philip Thompson of Auburn, Alabama as attorney for the Defendant, William S. McLaurine.

The Defendant was informed by Mr. Matt White that there would be a call of the docket in August, 2005 and a probable trial date in September, 2005. The Defendant was instructed to communicate with his attorney about dates and Court appearances.

DONE this the 29<sup>th</sup> day of June, 2005.

  
\_\_\_\_\_  
John V. Denson, II  
Circuit Judge

cc: William S. McLaurine  
Matthew W. White  
Rick Davison  
Philip Thompson

IN THE CIRCUIT COURT OF LEE COUNTY, ALABAMA

FILED  
JUL 01 2005

CITY OF AUBURN,

Plaintiff,

v.

Case No. CC-05-289

WILLIAM S. MCLAURINE,

Defendant.

IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK**DEFENDANT'S WRITTEN REQUEST FOR  
PRODUCTION OF INFORMATION BY STATE**

Defendant, by the undersigned counsel, respectfully requests the prosecution to disclose to Defendant's counsel, and permit him to inspect, copy, test and photograph all items of discovery as provided by law, including the following:

1. To disclose to Defendant's counsel any and all discovery as permitted, authorized and allowed under Rule 16.1, Alabama Rules of Criminal Procedure.

2. All statements, written or oral, made by this Defendant or any co-defendant to any person, at the time of, before or after Defendant's arrest in this case, including the name and address of the person(s) to whom the statement(s) was (were) made, which are relevant to:

(a) the alleged crime;

(b) the investigation of that crime; and

(c) any condition of Defendant, including but not limited to Defendant's mental or physical state:

(i) at the time of the alleged crime;

(ii) at the time of any statements of Defendant described in paragraphs 1(a) through (c) above



3. The names and addresses of all persons the prosecution proposes to offer as witnesses at the trial or any hearing of this case.

4. The names and addresses of all persons who have given written statements to the prosecution of any law enforcement officer.

5. The names and addresses of all persons who have given oral statements to the prosecution of any law enforcement officer.

6. Copies of the written and/or oral statements referred to in paragraph 3 or 4 above, including memoranda, summaries or recordings of such statements, as well as grand jury testimony.

7. All memoranda, documents and reports to, from and between law enforcement officers connected with the subject matter of this case.

8. All memoranda, documents and reports to, from and between the investigative staff of the prosecution, excluding those portions, if any, which contain the opinions, theories, or conclusions of the prosecuting attorney or members of his legal staff.

9. The criminal records and any list or summary reflecting criminal records of the Defendant and all persons whom the prosecution intends to call as a witness at trial.

10. All evidence in the prosecution's possession or available to the prosecution which is favorable to the Defendant on the issue of guilt, including but not limited to:

(a) Unfavorable evidence with respect to prosecution witnesses;

(b) Any and all evidence disclosing bias and/or prejudice or prejudgment by citizens in Lee County, Alabama, against Defendant and the identity of the persons making statements indicating such views;

(c) Any and all other information respecting any prosecution witness which is favorable to the Defendant on the issue of guilt.

(d) Statements made by any persons which are exculpatory with respect to this Defendant.

11. All evidence in the prosecution's possession or available to the prosecution which is favorable to the Defendant on the issue of punishment, including but not limited to evidence disclosing:

- (a) the Defendant has no significant history of prior criminal activity;
- (b) the offense was committed while the Defendant was under the influence of extreme mental or emotional disturbance;
- (c) the victim was a participant in the Defendant's conduct;
- (d) the Defendant acted under extreme duress or under the substantial domination of another person; and
- (e) the capacity of the Defendant to appreciate the criminality of Defendant's conduct or to conform Defendant's conduct to the requirements of law was substantially impaired.

12. All physical or documentary evidence, including diagrams, sketches, books, papers, documents, photographs or tangible objects in the possession of the prosecution that:

- (a) were obtained from or belong to Defendant;
- (b) the prosecution intends to offer at any trial or hearing in this case;
- (c) the prosecution is retaining for potential use in evidence at any trial or hearing in this case;
- (d) any law enforcement official is retaining for potential use in evidence at any trial or hearing in this case;
- (e) the prosecution or any law enforcement official has submitted to any professional personnel for examination or analysis in connection with this case.

13. All diagrams, sketches and photographs which have been made by or shown to any witnesses or prospective witnesses in this case.

14. All records and reports of every kind reflecting the conduct or results of any medical, pathological, toxicological, chemical, biochemical, criminalistic, laboratory, forensic or scientific examinations, investigations and analysis undertaken in connection with the investigation or preparation of this case.

15. All records and reports relating to Defendant including:

(a) all juvenile detention, jail, prison, parole, probation and presentence investigation reports;

(b) all arrest, conviction, and adult and juvenile criminal offense records;

(c) all records of any law enforcement authority;

(d) all records of any detention or court authority;

(e) all records of any prosecuting authority;

(f) all psychiatric, psychological and mental health records;

(g) all education records;

(h) all records and reports.

16. A statement as to whether the prosecution will rely on prior acts or convictions of a similar nature for proof of knowledge or intent, including a description of each act or conviction to be relied upon, if any.


17. A list of all expert witnesses the prosecution intends to call at trial, along with each expert's qualifications, the subject and a description of his or her contemplated testimony, and his or her report.

18. A statement as to whether the prosecution will use prior convictions for impeachment of the Defendant if Defendant testifies, along with the date of conviction and a description of each offense, if any.

This motion is made under the authority of Brady v. Maryland, 373 U.S. 83 (1963); Giles v. Maryland, 386 U.S. (1967); and William v. Dutton, 400 F.2d 797 (5<sup>th</sup> Circ. 1968) and Rule 16, Alabama Rules of Criminal Procedure.

WHEREFORE, the Defendant requests that the prosecution, its agent or employees, appropriate law enforcement officials, or the prosecuting attorney comply with this request prior to a hearing in this matter.

Respectfully submitted,

  
Philip A. Thompson, Attorney for Defendant

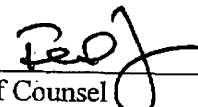
OF COUNSEL:

HAYGOOD, CLEVELAND, PIERCE,  
MATTSON & THOMPSON LLP  
611 E. Glenn Avenue  
P. O. Box 3310  
Auburn, AL 36831-3310  
(334) 821-3892

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the foregoing motion on the following individual by placing a copy thereof, postage prepaid and properly addressed in the U.S. Mail, on this the 30th day of June, 2005.

Matthew W. White, Esq.  
Adams, Umbach, Davidson & White, LLP  
P. O. Box 2069  
Opelika, AL 36803-2069

  
\_\_\_\_\_  
Of Counsel

**NOTICE TO CIRCUIT CLERK  
OF CHANGE OF ADDRESS**

**CITY OF AUBURN**

**Plaintiff,**

**vs.**

**WILLIAM S. MCLAURINE II,**

**Defendant.**

\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*

**CASE NUMBER: CC-05-289**

**In the Circuit Court of Lee County,  
Alabama**

I am informing you of a change of address. My current address of 549 East Glenn Avenue, #21, will change to 222 Tichenor, #9, on or about August 5, 2005, and change again to 222 Tichenor, #4, Auburn, AL, on or about August 9, 2005. Please do not attempt to mail anything to me until after August 9, 2005. My Cell Phone number will remain unchanged.

August 3, 2005

William S. McLaurine II  
FILED  
AUG 4 2005

## IN THE CIRCUIT COURT OF LEE COUNTY, ALABAMA

CITY OF AUBURN,

PLAINTIFF,

vs.

WILLIAM S. MCLAURINE,

DEFENDANT.

FILED  
AUG 31 2005

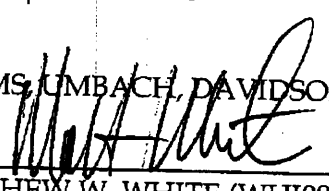
CASE NO: CC-05-289

IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERKPRODUCTION OF DOCUMENTS FOR IN CAMERA INSPECTION

COMES NOW, the City of Auburn, by and through counsel, and produces the attached documents, which are in response to the Court's Order of June 29, 2005, for an *in camera* inspection by the Court. The City requests that the Court determine whether such documents are discoverable by the Defendant, and, if so, whether the documents should be produced to the Defendant. The City of Auburn submits that the attached documentation is not discoverable, as it is not probative of any issue at trial, and furthermore is not discoverable under the *Alabama Rules of Criminal Procedure*.

Respectfully submitted this the 31 day of August, 2005.

ADAMS, UMBACH, DAVIDSON &amp; WHITE, LLP

  
 MATTHEW W. WHITE (WHI086)

City Prosecutor

P.O. Box 2069

Opelika, AL 36803-2069

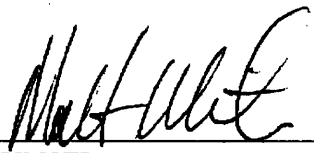
(334)745-6466

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the above and foregoing upon:

Philip A. Thompson  
HAYGOOD, CLEVELAND & PIERCE  
P.O. Box 3310  
Auburn, AL 36831-3310

Done this the 31 day of August, 2005.

  
\_\_\_\_\_  
OF COUNSEL



## IN THE CIRCUIT COURT OF LEE COUNTY, ALABAMA

CITY OF AUBURN,

Plaintiff,

vs.

WILLIAM S. MCCLAUURINE,

Defendant.

CASE NUMBER: CC-05-289

**FILED**  
SEP - 2 2005IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERKORDER

This matter is before the Court due to the production of documents for in camera inspection filed by the City Prosecutor, Mr. Matthew W. White, on August 31, 2005. This production is in response to this Court's Order of June 29, 2005 in which the Plaintiff's Motion for Production was GRANTED to the extent that the City of Auburn would produce evidence of "prior criminal activity" in the area in which he was arrested. The Defendant alleged that this was a material matter in his trial in the City Court of Auburn. The City of Auburn agreed to produce any written reports in Beat 3, which includes the area of arrest for one week prior to the arrest and up to the point of time of the arrest.

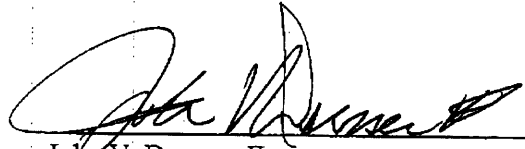
The Court has reviewed the documents produced and it appears to the Court at this time that the following matters are discoverable but possibly not admissible:

1. The Dispatch Call Log, which appears to be in reference to this Defendant for this specific charge. The remaining documents up to and excluding the Uniform Incident/Offense Reports appears to be a record of all of the activity of the police within the Beat 3 area for the time frame involved. The Uniform Incident/Offense Reports do not appear to be matters that are discoverable or admissible.

The Court sets for Hearing the question of any objections by the City of Auburn to

the admissibility of the documents the Court has indicated are discoverable. This should be heard at the Docket Call on **September 8, 2005 at 9:00 a.m. in courtroom number of the Lee County Justice Center.**

DONE this the 2<sup>nd</sup> day of September, 2005.

  
\_\_\_\_\_  
John V. Denson, II  
Circuit Judge

cc: Matthew W. White  
Philip Thompson

**MOTION TO COMPEL DISCOVERY**

CITY OF AUBURN,

Plaintiff,

v.

WILLIAM S. McLAURINE

Defendant

Action No(s): CC-05-289  
 MC04-0060431  
 04015246

STATE OF ALABAMA  
 In the Circuit Court  
 of Lee County

**FILED**  
 OCT 20 2005

IN OFFICE  
 CORINNE T. HURST  
 CIRCUIT CLERK

The defendant comes Pro Se in this matter as of October 18, 2005.

WHEREAS an ORDER was filed with the clerk on June 29, 2005, concerning various matters heard before the court on June 27, 2005, including specific rulings on discovery, and that prosecution has failed to comply with elements of that ORDER, and that the prosecution has failed to follow the Rules of Criminal Procedure and common law principles of due process of Alabama, the Defenses requests that the Court grant an ORDER TO COMPEL DISCOVERY as per Rule 16.5.

In the ORDER of June 29, the following items were decided:

- 1) General Discovery would be provided.
- 2) The conversation between Officer Bean and the dispatcher on the date of the arrest would be provided. During hearing this conversation was identified as the one in which the dispatcher confided to Officer Bean that he believe the person who made the telephone call used a false name.
- 3) Evidence of prior criminal activity in Beat 3, one week prior to the arrest would be provided.

On August 26, 2005 the defendant was arraigned. Included in the discovery presented on that date were the following:

- 1) The Complaint filed by Matthew White on May 2, 2005

- 2) Bond documentation
- 3) The original Complaint filed by Officer Lavarro Bean on December 6, 2004.
- 4) The Police report filed by Officer Lavarro Bean
- 5) The ORDER of Conviction from Municipal Court
- 6) A Transcript of the Telephone Call.
- 7) Arrest Record of Defendant

On September 1, 2005 a continuance was requested by Phil Thompson, in concurrence with prosecutor Mathew White, because discovery was still incomplete. The trial was postponed from the week September 8, 2005 to November 7, 2005.

Specifically absent from the discovery material were the following items:

- 1) Any Video made by the Police of the arrest.
- 2) The Audio of the telephone call and dispatch recordings, including the conversation between Officer Bean and the dispatcher in which the dispatcher states the caller may have used a fake name. It was stated in the hearing of June 27 by the Prosecution that the Defense would be provided everything they had in reference to Audio.
- 3) The criminal activity report of Beat B3, 1 week prior to the arrest of the defendant.

As per Rule 16.1(a) of the Rules of Criminal Procedure The Video made by the officers is properly discoverable. As per Rule 16.1(c)(1) the Audio of the Telephone Call is properly discoverable. As the complete set of Audio Recordings in possession of the prosecution was played at the Municipal trial, at the request of the prosecutor, this demonstrates intend use at trial and makes them properly discoverable under Rule 16.1(c)(2). As per rule 16.1(f) the communication between Officer Bean and the dispatcher is also exculpatory material and may not be denied. As the prosecution has mentioned criminal activity in the area of the arrest in the previous trial, and on other occasions, this demonstrates intended use at trial and the criminal activity report is properly discoverable as per Rule 16.1(c)(2).

As both Rule 16.1(a) and 16.1(c) require access to copy and examine, and production of discoverable items within fourteen (14) days of request and it has been more than four (4) months since the original ORDER containing discovery was filed, Defendant Requests, as per rule 16.5 that an ORDER TO COMPELL DISCOVERY be issued by the Court to require the Prosecution to PRODUCE and permit the defendant to INSPECT and COPY or photograph, items in possession, custody or control of the State, pertaining to this matter, pursuant to Rule 16.1 (a), Rule 16.1(c) of the Alabama Rules of Criminal Procedure, including but not limited to the following:

- 1) Any Video of the Arrest of the Defendant
- 2) Any Audio Material in possession of the Prosecution, inclusive of the communication between Officer Bean and the dispatcher concerning the validity of the Telephone Caller's name.
- 3) The criminal activity Reports of beat B3, one week prior to the arrest of the defendant (as deemed relevant to this case by this court).


It is further requested any material, that is properly discoverable, not presented within fourteen (14) days of the ORDER TO COMPELL DISCOVERY be prohibit from introduction to the trial by the prosecution by an ORDER OF LIMINE.

Although written request have been made of the prosecution in the past, let this document serve as written notice of a desire to INSPECT and COPY the Audio and Video in possession of the police and/or prosecution. It is requested that if the Prosecution cannot arrange a time for the defense to INSPECT and COPY these items within fourteen (14) days of this notice, that an ORDER be issued requiring the Prosecution to comply at the convenience of the Defendant.

Rules 16.1 (a), 16.1(c), 16.1(f), 16.5

October 20, 2005


Date

  
\_\_\_\_\_  
William McLaurine, defendant  
(334) 524-2175  
222 Tichenor Avenue #4  
Auburn, Alabama 36830

I certify delivery or mailing of this document to Mathew White.

October 20, 2005

Date

  
\_\_\_\_\_  
William McLaurine, defendant

(334) 524-2175

222 Tichenor Avenue #4

Auburn, Alabama 36830

**MOTION FOR A SPEEDY TRIAL**

CITY OF AUBURN,

Plaintiff,

v.

WILLIAM S. McLAURINE

Defendant

Action No(s): CC-05-289  
MC04-0060431  
04015246STATE OF ALABAMA  
In the Circuit Court  
of Lee County

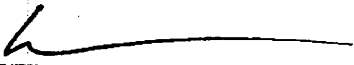
The defendant comes Pro Se in this matter as of October 18, 2005. The defendant waives any mandatory delay resulting from change of counsel or motion to proceed Pro Se.

The defendant DEMANDS a speedy trial.

The defendant objects to any further delay in this matter and moves that all provision for a speedy trial be exercised. No waiver of a speedy trial should be construed to be granted by the defense or the defendant.

October 20, 2005

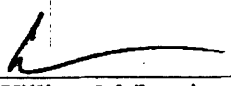
Date

  
\_\_\_\_\_  
William McLaurine, defendant  
(334) 524-2175  
222 Tichenor Avenue #4  
Auburn, Alabama 36830**FILED**  
OCT 20 2005IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK

I certify delivery or mailing of this document to Mathew White.

October 20, 2005

Date

  
\_\_\_\_\_  
William McLaurine, defendant  
(334) 524-2175  
222 Tichenor Avenue #4  
Auburn, Alabama 36830



**REQUEST OF THE COURT CLERK**

CITY OF AUBURN,

Plaintiff,

v.

WILLIAM S. McLAURINE

Defendant

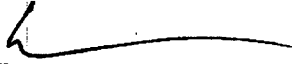
Action No(s): CC-05-289  
MC04-0060431  
04015246STATE OF ALABAMA  
In the Circuit Court  
of Lee County**FILED**  
OCT 20 2005IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK

The defendant comes Pro Se in this matter as of October 18, 2005, having terminated the service of Phil Thompson on that date. The defendant waives any mandatory delay resulting from change of counsel or motion to proceed Pro Se.

The defendant request that the Court Clerk send documentation of all motions and orders in this case to date, to the defendant at the address listed below. No contact should be made through or by Phil Thompson in this matter, other than to inform him of this notice.

October 20, 2005

Date

  
\_\_\_\_\_  
William McLaurine, defendant  
(334) 524-2175  
222 Tichenor Avenue #4  
Auburn, Alabama 36830

**MOTION TO PROCEED PRO SE**

CITY OF AUBURN,

Plaintiff,

v.

WILLIAM S. McLAURINE

Defendant

Action No(s): CC-05-289  
 MC04-0060431  
 04015246

STATE OF ALABAMA  
 In the Circuit Court  
 of Lee County

**FILED**  
 OCT 20 2005


IN OFFICE  
 CORINNE T. HURST  
 CIRCUIT CLERK

The defendant comes Pro Se in this matter as of October 18, 2005, having terminate the service of Phil Thompson on that date. The defendant waives any mandatory delay resulting from change of counsel or motion to proceed Pro Se.

The defendant request that the Court Clerk send documentation of all motions and orders in this case to date, to the defendant at the address listed below. No contact should be made through or by Phil Thompson in this matter, other than to inform him of this notice.

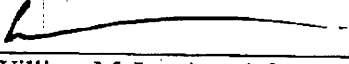
October 20, 2005

Date

  
 William McLaurine, defendant  
 (334) 524-2175  
 222 Tichenor Avenue #4  
 Auburn, Alabama 36830

I certify delivery or mailing of this document to Mathew White.

October 20, 2005  
Date

  
\_\_\_\_\_  
William McLaurine, defendant  
(334) 524-2175  
222 Tichenor Avenue #4  
Auburn, Alabama 36830

IN THE CIRCUIT COURT OF LEE COUNTY, ALABAMA

CITY OF AUBURN,

vs.

WILLIAM S. McLAURINE,

Defendant.

CASE NO. CC-05-289

FILED  
OCT 25 2005  
IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK

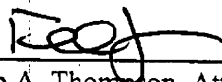
MOTION FOR STATUS CONFERENCE

Comes now the undersigned attorney and files this his motion to set a date for a status conference in the above referenced matter, and as a basis for this motion states as follows:

1. The undersigned attorney was appointed to represent the Defendant on or about June 30, 2005.
2. The undersigned attorney has been informed by the Defendant that he no longer needs the services of the undersigned. (See attached as Exhibit "A").
3. The Defendant is filing pro se motions without the knowledge, advice or consent of the undersigned.

WHEREFORE, the undersigned attorney respectfully requests this Honorable Court schedule a status conference in this matter at the earliest possible date.

Respectfully Submitted,

  
Philip A. Thompson, Attorney for Defendant

OF COUNSEL:

HAYGOOD, CLEVELAND, PIERCE, MATTSON & THOMPSON LLP  
611 East Glenn Avenue  
P. O. Box 3310  
Auburn, Alabama 36831-3310  
(334) 821-3892

CERTIFICATE OF SERVICE

I, Philip A. Thompson, the attorney of record for the Defendant, hereby certify that I have this day served a copy of the above and foregoing Motion upon:

Matthew W. White, Esq.  
Adams, Umbach, Davidson & White LLP  
P. O. Box 2069  
Opelika, AL 36803-2069

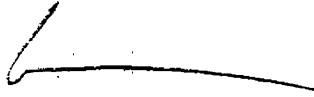
William S. McLaurine  
222 Tichenor Avenue #4  
Auburn, AL 36830

by placing a copy of the same in the U.S. Mail, postage prepaid this the 25th day of October, 2005.

  
\_\_\_\_\_  
Of Counsel for Defendant

TO: Phil Thompson  
FROM: William McLaurine  
222 Tichenor Avenue #4  
Auburn, AL 36830  
SUBJECT: Notice of Termination  
DATE: October 18, 2005

As of this date you are no longer my lawyer. Please forward any material for this case to the above address.



William McLaurine

The above document was received by Carolyn Hataway for Phil  
Thompson on October 18, 2005 at 3:25.

Carolyn Hataway  
Receivers Signature.

IN THE CIRCUIT COURT OF LEE COUNTY, ALABAMA

CITY OF AUBURN,

vs.

WILLIAM S. McLAURINE,

Defendant.

CASE NO. CC-05-289

FILED  
OCT 25 2005

IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK


MOTION TO WITHDRAW

Comes now the undersigned attorney and respectfully requests permission from this honorable Court to withdraw from representing the Defendant, William S. McLaurine, and as a basis for this motion states as follows:

1. The undersigned attorney was appointed to represent the Defendant on or about June 30, 2005.
2. The undersigned attorney has been informed by the Defendant that he no longer needs the services of the undersigned. (See attached as Exhibit "A").
3. The Defendant is filing pro se motions without the knowledge, advice or consent of the undersigned.

WHEREFORE, the undersigned attorney respectfully requests this honorable Court to grant this motion to withdraw.

Respectfully Submitted,

  
Philip A. Thompson, Attorney for Defendant

OF COUNSEL:

HAYGOOD, CLEVELAND, PIERCE, MATTSON & THOMPSON LLP  
611 East Glenn Avenue  
P. O. Box 3310  
Auburn, Alabama 36831-3310  
(334) 821-3892

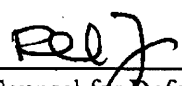
CERTIFICATE OF SERVICE

I, Philip A. Thompson, the attorney of record for the Defendant, hereby certify that I have this day served a copy of the above and foregoing Motion upon:

Matthew W. White, Esq.  
Adams, Umbach, Davidson & White LLP  
P. O. Box 2069  
Opelika, AL 36803-2069

William S. McLaurine  
222 Tichenor Avenue #4  
Auburn, AL 36830

by placing a copy of the same in the U.S. Mail, postage prepaid this the 25th day of October, 2005.

  
\_\_\_\_\_  
Of Counsel for Defendant



TO: Phil Thompson  
FROM: William McLaurine  
222 Tichenor Avenue #4  
Auburn, AL 36830  
SUBJECT: Notice of Termination  
DATE: October 18, 2005

As of this date you are no longer my lawyer. Please forward any material for this case to the above address.



William McLaurine

The above document was received by Carolyn Hataway for Phil  
Thompson on October 18, 2005 at 3:25.

Carolyn Hataway  
Receivers Signature.

## IN THE CIRCUIT COURT OF LEE COUNTY, ALABAMA

CITY OF AUBURN,

Plaintiff,

vs.

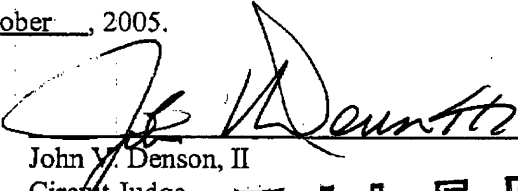
WILLIAM S. MCCLAURINE,

Defendant.

CASE NUMBER: CC-05-289

ORDER

This matter is before the Court on two (2) Motions, i.e. Motion for Status Conference filed on October 25, 2005 by the Defendant's attorney, Mr. Phil Thompson and a Motion to Withdraw filed on the same date by Mr. Thompson. The Court GRANTS the Motion to Withdraw and sets this matter for a Status Conference on **Friday, November 4, 2005 at 9:00 a.m.** At that time, the Defendant should appear and inform the Court as to whether he will proceed with or without an attorney and the Prosecutor for the City of Auburn shall appear to determine if the trial should go forward on **November 17, 2005** which is this Court's next Docket for Auburn City Appeals cases. The Court will also take up at the Status Conference the production of documents which have been made and address any other Motions pending.

DONE this the 31<sup>st</sup> day of October, 2005.
  
 John Y. Denson, II  
 Circuit Judge

cc: Matthew W. White  
 Philip Thompson  
 Mr. William McLaurine  
 222 Tichenor Avenue, #4  
 Auburn, Alabama 36830

**FILED**  
 OCT 31 2005  
 IN OFFICE  
 CORINNE T. HURST  
 CIRCUIT CLERK

## IN THE CIRCUIT COURT OF LEE COUNTY, ALABAMA

CITY OF AUBURN,

Plaintiff,

vs.

WILLIAM S. MCLAURINE,

Defendant.

\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*

CASE NUMBER: CC-05-289

ORDER

This matter came on for a Status Conference on today's date. Mr. McLaurine appeared, Pro Se and Mr. Matthew W. White appeared on behalf of the City of Auburn. This case is set for the call of the Docket on **November 17, 2005** and has been set for trial on **December 5, 2005**. The Defendant states that he has received the production of the copy of the audio tape and video tape requested. The Court reviewed its previous Order regarding its documentation. Mr. White was given the documents that the Court considered producing and he was to make copies for the Defendant. Upon returning to Court, Mr. White disclosed that the materials to be produced included more than the one (1) week that had been requested, therefore he removed all but the one (1) week and copies were produced to the Defendant. The Defendant further stated that he would discuss with the Court Reporter who took down the first Hearing and would make arrangements paying for the transcript if he wants that transcript produced. Mr. White and the Defendant informed the Court that there were no other discovery matters and the case is now ready to proceed to trial.

DONE this the 4<sup>th</sup> day of November, 2005.  
John V. Denson, II  
Circuit Judge

cc: Matthew W. White  
Mr. William McLaurine  
222 Tichenor Avenue, #4  
Auburn, Alabama 36830

**FILED**  
NOV - 4 2005  
IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK

## NOTICE TO JUDGE DENSON

CITY OF AUBURN,

Plaintiff,

v.

WILLIAM S. McLAURINE

Defendant

FILED

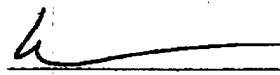
NOV 07 2005

IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERKAction No(s): CC-05-289  
MC04-0060431  
04015246STATE OF ALABAMA  
In the Circuit Court  
of Lee County

As per your request, this notice is to inform you that Court Reporter Janet Smith has informed me the price of the transcript of the special hearing on or about June 27, 2005 in this matter is \$50-\$100. If I am eligible to have the transcript paid for because I have been declared indigent, I would like to exercise this option.

November 7 2005

Date

  
William McLaurine, defendant  
222 Tichenor Avenue #4  
Auburn, Alabama 36830

## IN THE CIRCUIT COURT OF LEE COUNTY, ALABAMA

CITY OF AUBURN,

Plaintiff,

vs.


WILLIAM S. MCLAURINE,

Defendant.

CASE NUMBER: CC-05-289

ORDER

This matter appeared on the Docket Call for the City of Auburn Appeals on November 17, 2005. The Defendant appeared. On November 7, 2005 the Defendant filed a written Motion asking that the Court continue to declare him indigent and to pay for the transcript of the case in the Auburn City Court case, and gave an estimate of the costs of Fifty and no/100 Dollars (\$50) to One Hundred and no/100 Dollars (\$100). The Defendant testified that he is now employed and the Court finds that he is no longer indigent. On October 25, 2005, Mr. Philip Thompson filed a Motion to Withdraw and on October 31, 2005, the Court Ordered that Mr. Thompson be allowed to withdraw. The Defendant now wishes to proceed with the case without an attorney. The Defendant also stated that he had several Motions to present and the Court instructed him that these need to be submitted in writing and will be heard on December 2, 2005. The jury trial in this case is set for December 5, 2005.

DONE this the 17<sup>th</sup> day of November, 2005.  
John V. Denson, II  
Circuit Judge

cc: Matthew W. White  
Mr. William McLaurine  
222 Tichenor Avenue, #4  
Auburn, Alabama 36830

**FILED**  
NOV 18 2005IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK

**MOTION TO DISMISS WITH PREJUDICE**

CITY OF AUBURN,

Plaintiff,

v.

WILLIAM S. McLAURINE

Defendant

Action No(s): CC-05-289  
MC04-0060431  
04015246STATE OF ALABAMA  
In the Circuit Court  
of Lee County**FILED**

NOV 22 2005

IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK

The Defendant comes before the court to request a MOTION TO DISMISS WITH PREJUDICE. This defendant maintains that reasonable suspicion and probable cause did not exist at the required times during the incidents of contact and arrest, but this motion does not address all the relevant issues of those claims. Instead this motion is an attempt to expedite the dismissal of this case by demonstrating the lack of a prima facie case of criminal activity.

The defense will recap the accusations by the prosecutions, and show that even if all statements made are true, no criminal activity could have occurred.

AS GROUNDS FOR THE MOTION the defense presents the following summary of the prosecution's case, without regard to the validity of the claims:

- 1) The defendant was detained in a lawful, investigative, Terry stop, and while detained refused to give the police his name, identification and a reason for being in the area.
- 2) The police repeated the questions and informed the defendant that he had an "obligation" to respond. The Police claim they informed the defendant that the defendant could not leave, and the manner of that informing was clear.
- 3) After the police had informed the defendant of the fact that he could not leave, and that fact that he was under an "obligation" to respond, the defendant attempted to leave the scene.
- 4) The activity of the defendant constitutes a crime for intentionally interfering with a law enforcement officer, pursuant to Alabama Code §13A-10-2.

From United State Code Annotated, IV Amendment, § 903:

“Arrest for arrestee’s refusal to identify herself during lawful, investigative, Terry stop and for violation of statute criminalizing resistance to peace officer violated Fourth Amendment proscription against search and seizure.”

From item 1 from above, the refusal to comply with the police request for information, is not a valid grounds for arrest.

From United State Code Annotated, IV Amendment, § 783:

“Seizure does not occur when police officer approaches individual and merely asks to examine his identification, so long as officer does not convey message that compliance with request is required.”

From United State Code Annotated, IV Amendment, § 783:

“When Officers detained defendant for purposes of requiring him to identify himself, they performed a “seizure” of his person subject to the requirements of this amendment.”

From Item 2 above, a seizure was performed prior to the attempt of the defendant to leave the scene.

From United State Code Annotated, IV Amendment, § 835:

“A formal arrest is not valid unless there is probable cause; probable cause exist if the totality of the facts and circumstances know to a reasonable arresting officer would support the belief that the suspect has committed or is committing a crime.”

The attempt to leave cannot be used to justify an arrest, as fruit of the poison tree, since the seizure occurred before the attempt to leave happened.

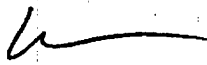
From United State Code Annotated, IV Amendment, § 835:

"An investigative stop requires only that the officer is able to produce articulable facts giving rise to reasonable suspicion that a defendant has been or is about to be engaged in criminal activity; an investigative stop becomes a seizure at the point when a reasonable person would feel that he is not free to leave, and there must also be an intentional acquisition of control."

Even if it is ruled an arrest did not occur, the right to leave the scene was present during the investigative stop and is not criminal.

WHEREAS the defendant has demonstrated that the arrest was not valid, for lack of probable cause and/or prima facie facts to establish a crime, the defendant request the court grant an ORDER TO DISMISS WITH PREJUDICE.

November 22, 2005  
Date

  
\_\_\_\_\_  
William McLaurine, defendant  
222 Tichenor Avenue #4  
Auburn, Alabama 36830



I certify the delivery and/or mailing of this document, MOTION TO DISMISS WITH  
PREJUDICE to Mathew White,

November 22, 2005

Date



\_\_\_\_\_  
William McLaurine, defendant  
222 Tichenor Avenue #4  
Auburn, Alabama 36830

**MOTION TO DISMISS WITH PREJUDICE FOR FAILURE  
TO ESTABLISH REASONABLE SUSPICION AND/OR PROBABLE CAUSE**

CITY OF AUBURN,

Plaintiff,

v.

WILLIAM S. McLAURINE

Defendant

Action No(s): CC-05-289  
MC04-0060431  
04015246

STATE OF ALABAMA  
In the Circuit Court  
of Lee County

**FILED**  
NOV 22 2005

IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK

The Defendant comes before the court to claim that the Police failed to establish reasonable suspicion and/or probable cause at the appropriate times in the stop and/or arrest of the defendant. The only remedy available is to use the exclusionary rule to limit all observations and interaction of the stopping and/or arresting officers after the improper seizure under the Fourth Amendment. This limitation will result in either a demonstration that no crime could be committed, or a nullification the authority of the officers by the exclusionary rule, thereby undercutting the critical component of interfering with an authorized action as mentioned in the COMPLAINT.

AS GROUNDS FOR THIS MOTION the defense will state the time line of EVENTS to determine the status of reasonable suspicion and/or probable cause at specific times. The series of EVENTS will be divided into the following sequential categories:

- 1) The Telephone Call
- 2) Officer Bean's Dispatch and Search for a suspect.
- 3) Officer Bean's Approach and Stop of the Defendant.
- 4) The Police Questioning and Arrest

It is important to understand the standards of reasonable suspicion to be used in this evaluation. Reasonable Suspicion is generally referenced from *United State v. Cortez* 101 S.Ct 690 (1981) as follows (at 695):

"...Courts have used a variety of terms to capture the elusive concept of what cause is sufficient to stop a person. Terms like 'articulable reasons' and 'found suspicion' are not self defining; They fall short of providing clear guidance dispositive of the myriad factual situations that arise. But the essence of all that has been written is that the totality of the circumstances –the whole picture– must be taken into account. Based on that whole picture the detaining officers must have a particularized and objective basis for suspecting the particular person stopped of criminal activity.. See, e.g. *Brown v. Texas*, *supra*, 443 U.S. at 51, 99 S.Ct., at 2640; *United States v. Brignoni-Ponce*, *supra* 422 U.S., at 884, 95 S.Ct., at 2581.

[5,6] The idea that an assessment of the whole picture must yield a particularized suspicion contains two elements, each of which must be present before a stop is permissible. First the assessment must be based upon all the circumstances. The analysis proceeds with various objective observations, information, information from police reports, if such are available, and consideration of the modes or patterns of operations of certain kinds of lawbreakers. From these data, a trained officer draws inferences and makes deductions – inferences and deductions that might well elude an untrained person.

The process does not deal with hard certainties, but with probabilities. Long before the law of probabilities was articulated as such, practical people formulated certain common sense conclusion about human behavior; jurors as fact finders are permitted to do the same – and so are law enforcement officers. Finally the evidence thus collected must be seen and weighed not in terms of library analysis by scholars, but as understood by those versed in the field of law enforcement.

The Second Element contained in the idea that an assessment of the whole picture must yield a particularized suspicion is the concept that the process just described must raise a suspicion that the particular individual being stopped is engaged in wrong doing. Chief Justice Warren, speaking for the court in *Terry v. Ohio*, *supra*, said that, '[t]his demand for specificity in the information upon which police action is predicated is the central teaching of this Courts Fourth Amendment's Jurisprudence' *Id.*, 392 U.S., at 21, n. 18, 88 S.Ct. at 1880, n. 18 (emphasis added). See also *Brown v. Texas*, *supra*, 443 U.S., at 51, 99 S.Ct., at 2640; *Delaware v. Prouse*, *supra*, at 661-663, 99 S.Ct. at 1400-1401; *United States v. Brigoni-Ponce*, *supra*, at 884, 95 S.Ct., at 2581."

Alabama Courts have as also weighed in on defining reasonable suspicion in *Spradley v. State*, 414 So. 2d 170 (Ala. Crim. App. (1982) as follows:

"...The detention and investigation may not be based on a peace officer's unsupported intuition, subjective feelings or suspicions, mere hunch, or good faith, but it must be based on the objective perception of events, without particularization as to a specific crime. There must be a rational suspicion on the part of the officer that some activity is out of place, some indication to connect the person under suspicion with such activity, and some suggestion that the activity is related to crime."

A Good example of Alabama Courts using the Exclusionary Rule, comparable to this case is *Harris v. State* 568 So. 2d 421 (Ala. Crim. App. 1990), at 424:

"Driving slowly through a neighborhood in the early morning hours is not the type of specificity or factual basis to give rise to a particularized suspicion that this particular person is engaged in wrongdoing. Also relevant is the fact that the appellant apparently continued through the residential, area ultimately being stopped by a Bargain Town Store.

'As for suspicion of burglary residential premises, something more than presence in immediate proximity to those premises will ordinarily be required, for persons have occasion to enter and exit their residence at all hours. This is not to suggest, however, that the time of day is unimportant; conduct which might be deemed innocuous in the day time might be viewed otherwise at night. Even at night, however, something in the way of suspicious conduct should be present, such as stealthy movements, the apparent 'casing' of the premises, efforts to conceal one's presence from passerby, flight from the premises, or other conduct which would not ordinarily be expected from a person who resides there unless the suspect resembles a description with respect to prior burglaries.'

LaFave, *Search and Seizure* § 9.3(c) (1987). The fact that the appellants vehicle was traveling at a slow rate of speed, without more, does not give rise to the implication that the appellant was 'casing' any residences. Cf. *Tillman v. State*, 275 Ark. 275, 630 S.W. 2d 5(1982), cert. Denied, 459 U.S. 1201, 103 S.Ct. 1185, 75 L.Ed.2d 432 (1983) (strange

vehicle seen driving very slowly with driver looking at houses and vehicle then observed in position indicating it had just backed out of driveway); *People v. Cobb*, 690 P.2d 848 (Colo.1984) (sufficient indication of defendant casing a residence where he knocked on the door after midnight and when the door was answered, he stated that he had the wrong address); *Commonwealth v. Wren*, 391 Mass. 705, 463 N.E.2d 344 (1984) (police had reasonable suspicion van was casing a neighborhood where it drove slowly down several dead end streets). See also *People v. Johnson*, 64 N.Y.2d 617, 485 (fact that defendant was 'looking at houses' found insufficient because there is 'little else to look at in a residential neighborhood, and there is no other testimony suggesting that his behavior was furtive or his movements unusual'.)"

The defense also cites *Barnette ex parte*, 624 So.2d 507 (Ala. Crim. App 1993), requiring police to independently corroborate tips from anonymous callers.

AS GROUNDS FOR THE MOTION THE DEFENSE PRESENTS THE FOLLOWING:

I. The Telephone Call.

The defendant submits Exhibit P-1, the transcript of the Telephone Call, also referred to as Audio File 04322.

The defense claims that the Telephone Call conveys only four general assertions. They are as follows:

1) Physical Location and Direction of Travel

Caller: Yeah, there's a mysterious man, walking on, Ah, Glenn towards Donahue.

...

Operator: From which direction, where, where

Caller: From college. From college.

2) Opinions of Activity

Caller: Yeah, there's a mysterious man, walking on, Ah, Glenn towards Donahue.

...

Operator: What's suspicious about him?

Caller: He's, He's stopping, and, and, looking, and, and he has something in his hand.

Caller: That's all I saw.

3) Activity Descriptions

Caller: He's, He's stopping, and, and, looking, and, and he has something in his hand.

4) Physical Descriptions

Caller: He's, He's stopping, and, and, looking, and, and he has something in his hand.

...

Operator: What is he wearing.

Caller: Ah, grey shirt.

Operator: Grey shirt, is he a white male, or a black male?

Caller: White. With black pants

The physical location of a suspect may have no bearing on the validity of an arrest unless it was a felony to be in that location. *Ex Parte Hamm*, 564 So.2d 469 (Ala. 1990). It is important to note physical location of the suspect in the Call and the physical location of the defendant in arrest as separate and distinct as they are discussed in the "total picture." The corner of Glenn Avenue and College Street in Auburn, Alabama is major downtown intersection. At the four Corners of that Intersection are Amsouth Bank, A Church Parking lot, and two gas stations, one of which is Chevron, a 24 hour service station. One block away at Glenn Avenue and Gay Street, 2 more 24 service stations, Spectrum and Sunny Foods, also exist. This area is a major commercial district of the downtown Auburn area. During the entire time of this incident, 3 stores were operating in the vicinity. It can in no way be considered "unusual" for a pedestrian to be in this area at this time. That the area of the stop and arrest of the defendant was a "neighborhood" will not be contested by the defense at this time.

The Caller would not leave a full name and refused to leave contact information (See Exhibit P-1a). This prevented the police from ascertaining the identity and/or credibility of the Caller. Without knowledge of who the caller was it was not possible to attach knowledge of special training beyond that of a layman to form opinions on the activity of the suspect. In addition The Opinions of Activity expressed by the caller are only suspicions or hunches, not "objective perceptions of events". The word "mysterious" denotes a lack of knowledge of the subject by the caller. The actions the caller attributes as suspicious are not criminal and do not naturally lead to implications of criminal activity or public danger without speculation or conjecture. It also important to note the Caller never used the word "suspicious," this word was interjected by the dispatcher.

The Activity Descriptions the caller attributes as suspicious are not criminal and do not naturally lead to implications of criminal activity or public danger. It is important to note that the caller never identifies what the suspect is "looking" at. The Anonymous Caller does not clearly articulate what he is describing. The Anonymous Caller does not allege any crime associated with the actions he describes.

## II. Officer Bean's Dispatch and Search for a suspect.

See Exhibit P-1, the transcript of the Telephone Call. The defendant also presents Exhibit P-2, a copy of the transcript of the judicial proceedings before the Honorable Joe S. Bailey on Thursday March 31, 2005, as reported by Lyn Daugherty, Certified Shorthand Reporter and Commissioner for the State of Alabama, of Haislip, Ragan, Green, Starkie, & Watson. (Telephone: (334) 263-4455, Address: 566 South Perry Street, Montgomery, Alabama, 36104).

In the Telephone Call, the Anonymous Caller (Ron), did not use the word "house" or "houses." Nor did the Caller, at any time, specify what the suspect WAS LOOKING AT. This introduction of the word houses, is not based on any "objective perception of events," but upon the "hunch" of the dispatcher that the suspect was looking at "houses." Also note from the telephone call that no mention of the word "weapon" was used, only that the suspect was carrying something.

From the Transcript of testimony (Exhibit P-2) of March 31, 2005, we may extract the following statements and implications from Officer Beans Testimony (See Exhibit P-2, Pages 4-23):

- 1) Officer Bean was dispatched to investigate a suspect.
- 2) Officer Bean made a thorough inspection of the area.
- 3) Officer Bean observed the defendant and identified him as the suspect by physical presence on Toomer Street and/or description from the dispatch call.
- 4) Officer Bean's location prior to approach was at the corner of Glenn Avenue and Toomer Street. This position was north of the defendant.
- 5) Officer Bean observed the defendant southbound on Toomer Street.
- 6) Officer Bean approached the defendant from the rear after identifying him.
- 7) Officer bean, who had no physical opportunity to observe the defendant's face or eyes, because of the direction of approach, determined that the defendant was "looking in the direction of houses" (See Exhibit P-4, page 7, line 22), without specificity as to which house was looked at, or what part of any house was looked at.
- 8) The defendant was observed to be "walking slowly."
- 9) The defendant was only observed to have stopped in response to Officer Bean.

At this point the question of whether a reasonable stop of the defendant was made according the provisions of Fourth Amendment to the Constitution.

First, it must be determined if a stop of this type was made. The courts have clearly stated that the Police have the right to approach people in public places without having to perform a stop. But it is clear that officer bean interdicted the travel of the defendant, by Officer Bean's own statements, and also by those of Sergeant Matthews. Officer Bean was asked if he told the "defendant to stop walking," and he replied that at first the



defendant continued to walk and "...I had to draw closer to him. And I called to him again and he finally stopped." (See Exhibit P-2, page 8, lines 9-14) Sergeant Mathews stated that this event was an "investigative stop" (See Exhibit P-2, page 26, line 8). Clearly, from the testimony of the police officer's this event was a "stop" of the defendant.

While a stop does not require probable cause, it does require reasonable suspicion. Based on the qualification of what reasonable suspicions is from the above cases, what could have possibly been know by Officer Bean is stated as follows:

Assertion A

A "mysterious" man, referred to here as the suspect, was seen walking in a section of the city that had active commercial activity, and is also know as a high traffic area.

Assertion A is not relevant to the development of reasonable suspicion for the following reasons: It was not, "out of the ordinary" for anyone to be in the area because of the 3 different 24 hour convenience stores; the word mysterious, supplied by the Anonymous Caller, denotes a lack of knowledge of the suspect, further indicating that the allegations made by the caller are a "hunch."

Assertion B

The suspect was "stopping, and looking," in that section of the city, without regard to what is being looked at.

Assertion B is not relevant to the development of reasonable suspicion for the following reasons: it is not clear what is being looked at, and hence the "stopping and looking" is not "articulable"; Glenn Avenue and College Street is major traffic area with pedestrian cross walks, it is not "out of the ordinary" to stop and look for traffic at such a location.

Assertion C

That suspect was "suspicious"

Assertion C is not relevant to the development of reasonable suspicion for the following reasons: This word was interjected by the dispatch caller and never repeated by the Anonymous Caller (Ron), and is a "hunch" of the dispatcher or of the Caller, though the Caller never articulates this word; The actions attributed by the caller "...stopping, and, and, looking, and, and he has something in his hand..." contribute nothing the belief criminal activity as related elsewhere in this document.

Assertion D

That suspect was "looking at houses" in the commercial section of the city.

Assertion D is not relevant to the development of reasonable suspicion for the following reasons: The word "houses" was interjected by the dispatcher after the Telephone Call by the Anonymous Caller (Ron) was completed, and is not an "object perception of events," but is definitely a "hunch.

Assertion E

The defendant fit a description similar to the suspect seen walking.

At this time the defense will not refute this. This will require the analysis of reasonable suspicion for both locations (the observations reported in the call, and the observations by Officer Bean) be considered separately and jointly for the purposes of reasonable suspicion.

Assertion F

The defendant was seen walking slowly on the sidewalk at the location of arrest.

"Walking slowly" is comparable to "driving slowly" as in *Harris v. State, supra*. Both walking and driving slowly are definable as reasonable actions of people requiring access to their homes as per *Harris v. States* quote from *LaFave, supra*. Assertion F is not relevant to the development of reasonable suspicion because it a element of the *Harris v. State, supra* conditions that do contribute to a particularized suspicion.

Assertion G

The defendant was "looking in the direction of houses."

Assertion G is not relevant to the development of reasonable suspicion because it a element of the *Harris v. State, supra* conditions that do not contribute to a particularized suspicion.

Assertion H

The defendant was "looking into houses."

Assertion H is not relevant to the development of reasonable suspicion because it a "hunch" of Officer Beans. At no time has anyone besides officer bean alleged the defendant or the suspect as observed by the Anonymous Caller (Ron), ever suggest "looking INTO houses". Is not based on "objective perceptions of events" and not considerable in the development of reasonable suspicion.

Assertion I

The time of day was approximately 00:30 hours.

The defense recognizes that night time can make certain behavior suspicious, behavior that during the day would be innocuous. This does not change the fact the behavior must lead to a particularized suspicion, and does not mean that any behavior a police officer may define as personally suspicious warrants the level of reasonable suspicion.

Assertion J

The defendant was seen in an "abandoned neighborhood"

Officer Bean states that while he calls the area abandoned, he means that most of the people are gone and that some residents will be present. (See Exhibit P-4 page 21). This means that residence should be expect to have access as per *LaFave, supra*

Assertion K

The defendant was seen in a "high crime area"

The defense recognizes that criminal activity in an area, can make certain behavior suspicious, behavior that elsewhere would be innocuous. This does not change the fact the observed behavior must lead to a particularized suspicion (*See Texas v. Brown, supra*), and does not mean that any behavior a police officer may define as personally suspicious warrants the level of reasonable suspicion. It also important to recognize what area is actually defined as a "high crime area." The "neighborhood" area may possibly be considered a "high crime area" due the nature of crimes of "burglaries" because of the low number of residents. The commercial area where the suspect was observed has very few residences, and the attendant at the Chevron as a good view of area. The constant presence of the attendant at the Chevron is not different form any other time of year and the commercial area where the suspect was observed cannot be considered a "high crime area" for the purposes of developing reasonable suspicion.

Assertion L

The suspect or defendant was in possession of a weapon.

Assertion L is not relevant to the development of reasonable suspicion because it a "hunch" of Officer Beans. At no time has anyone besides officer bean alleged the defendant or the suspect as observed by the Anonymous Caller (Ron), ever mentions the word "weapon". No weapon was found on the defendant. While it may be reasonable to believe that a weapon might be present under "stop and frisk" rules, it is not based on "objective perceptions of events" and not considerable in the development of reasonable suspicion.

This argument may be summarized as being similar to *Harris v. State* with 3 minor distinctions.

- 1) The defendant was walking instead of driving.

This point is moot. Possible modes of travel to a house by a resident must include walking unless that resident plans to sleep in their car. (See *Harris v. State, supra on LaFave*)

- 2) The defendant was reported in an "abandoned neighborhood" at night, that was supposedly designated a "high crime area."

Officer Bean states that while he calls the area abandoned, he means that most of the people are gone and that some residents will be present. (See Exhibit P-2 page 21). All of these issues are environmental. The conditions established in *Harris v. State*, i.e. the nature of casing a house for a burglary, are the same conditions established for the "high crime" rate of burglary claimed by the police. There is no difference in conditions from *Harris v. State, supra* because of the combination of these factors.

- 3) The defendant was suspected of "stopping and looking" at something in another section of the city that was commercially active at the time of the report of activity.

In The Telephone Call (Exhibit P-1), the Anonymous Caller (Ron), does not specify what the suspect is looking at. As this Telephone Call is the only "object perception of events" at the commercial location, and the call is not an "articulable" description that can be developed into a reasonable suspicion this matter, no reasonable suspicion can be developed from this incident, solely from this call.

The Telephone Call provided no "objective perception of events" that can be articulated into grounds for reasonable suspicion. It can be viewed as a "hunch" of a layman, not versed in police procedure of observing criminal behavior. The observations made by Officer Bean match the criteria of *Harris v. State, supra* and fail to meet the grounds for reasonable suspicion. Officer Bean's observations can be categorized as a "hunch". The "hunch" by the Anonymous Caller plus the "hunch" of Officer Bean cannot be added to together to add up to obtain reasonable suspicion.

It may not be necessary to consider both observations collectively. Officer Bean stated that the only distinguishing feature between other people in the area and the defendant was that the description of the suspect matched the defendant

(See Exhibit P-4, page 21, line 21). Officer Bean's description of the search and approach to the defendant (See Exhibit P-2, pages 5-8) proceeds as follows on Direct Examination by the Prosecutor:

- "A. As I was passing Toomer Street, I looked down Toomer Street and saw a white male walking along the – probably the west sidewalk fitting the description of the clothing we got.
- Q. About how far away from you was the person when you first saw him?
- A. Anywhere from 40 to 50 yards.
- Q. What did you do?
- A. I backed up and turned down Toomer Street and went to contact him."

It is important to note that Officer Bean did not say he took special precautions to observe the actions of the defendant but proceeded with contact immediately, indicated that he had already made up his mind to approach. His later statement that he proceeded to stop and question the defendant as opposed to others, because the defendant "fit the description," also confirms that Officer Bean took no special precautions to make independent observations of the defendant. Officer Bean has never testified that his personal observations of the defendant play any role in the stop. In fact he went on to take precautions to state the absence of suspicious circumstances about his initial contact, saying "He was walking slowly down the sidewalk looking in the direction of houses just walking on the sidewalk. He wasn't in the yard or anything." (See Exhibit P-2, page 7, line 21 to page 8, line 1).

The police did not follow the proper procedure in determining probable cause cited in *Harris v. State, supra* including, but not limited to, independently observing the defendant to verify the veracity and honesty of the caller. The caller was Anonymous, for he refused to completely identify himself, or leave contact information. The police were required to confirm the statements of the Anonymous Caller (Ron) in order for the stop to be considered reasonable based on the caller's information. Since Officer Bean has testified that the defendant

was not observed stopping (See Exhibit P-2 page 16, lines 14-18), this confirmation and corroboration was not done, and the call in not considerable in the development of suspicion.

Coupling the failure to confirm the anonymous call with the fact that no activity giving rise to reasonable suspicion could have been observed by Officer Bean, based on his testimony and the standards of *State v. Harris*, and that Officer Bean has not alleged the attempt to "case" a house by the defendant, there is no "objective perception of events" that can lead to the development of reasonable suspicion, either from each separate observation by the Anonymous Caller or the observations of Officer Bean, or from their collective effect.

WHEREAS the defense has presented facts of this case and the law pertaining to those facts, in clear and detailed manner, and those facts demonstrate that the Police did not have a reasonable suspicion to stop the defendant, the defend request that this court grant a MOTION TO DISMISS WITH PREJUDICE. If this Court decides not grant such a motion, the defense request that the Court consider the following facts pertaining to probable cause to arrest:

ON THE GROUNDS presented previously by the defense in this motion to establish that reasonable suspicion did not exist, and further testimony of the police officers, the defense also claims that probable cause to arrest was not present.

The first issue in determining if probable cause existed was to determine when the arrest, or seizure as defined by the fourth amendment, occurred. The defense presents that the earliest the arrest could have occurred is the stop made by Officer Bean, and the latest the arrest, or seizure, could have come is when the police officers grabbed the defendant. The intervening events must be analyzed to determine if the arrest occurred at some other specific time. The events that must be considered are the following, listed in chronological order:

- 1) The stop by Officer Bean.

If Officer bean considered the stop to be a mandatory detention from the outset, his mannerism and show of force would represent a seizure.

2) The demand for name and identification that is coercive.

Once a police officer represents that any request for information is mandatory a seizure has occurred. Officer bean stated that the defendant "...has and obligation to give us his name and his address and the reason for being in that area" (See Exhibit P-2 page 10 line 22 to page 11, line 2)

From United State Code Annotated, IV Amendment, § 783:

"Seizure does not occur when police officer approaches individual and merely asks to examine his identification, so long as officer does not convey message that compliance with request is required."

From United State Code Annotated, IV Amendment, § 783:

"When Officers detained defendant for purposes of requiring him to identify himself, they performed a "seizure" of his person subject to the requirements of this amendment."

3) The statement or show of force by the police indicating detention.

Both Police officer's claim that the defendant wanted to leave and each officer informed the defendant that defendant could not leave. Officer Bean stated "...he doesn't have the right to leave right now, were conducting and investigation." (See Exhibit P-4, page 13, lines 12-15). Sergeant Mathews stated that he clearly informed the defendant he should consider himself "detained" (See Exhibit P-4 page 28, lines 7-11)

From United State Code Annotated, IV Amendment, § 835:

"An investigative stop requires only that the officer is able to produce articulable facts giving rise to reasonable suspicion that a defendant has been or is about to be engaged in criminal activity; an investigative stop becomes a seizure at the point when a reasonable person would feel that he is not free to leave, and there must also be an intentional acquisition of control."



4) The physical detainment.


The officers physically detained the suspect. (See Exhibit P-4, page 28, lines 14-22.

The next issue is to determine what was known by the police that might constitute probable cause. The various crimes that must be analyzed include burglary, the Auburn Municipal ordinance against Peeping Toms, and the Obstruction of Government Operations charge. No allegation of "casing" a building has made. No allegation of trespassing has been made to qualify for the crime of being a Peeping Tom, and no officer was actually prevented from making demands of the defendant, there is no probable cause of Obstructing Government Operations.

WHEREAS nothing as been introduced through information or complaint that will support probable cause on the part the arresting officer(s). The defense request that the court grant an ORDER TO DISMISS WITH PREJUDICE.

November 22, 2005


Date

  
\_\_\_\_\_  
William McLaurine, defendant  
222 Tichenor Avenue #4  
Auburn, Alabama 36830

I certify the delivery and/or mailing of this document, MOTION TO DISMISS WITH  
PREJUDICE FOR FAILURE TO ESTABLISH REASONABLE SUSPICION AND/OR  
PROBABLE CAUSE to Mathew White,

November 22, 2005

Date

  
\_\_\_\_\_  
William McLaurine, defendant  
222 Tichenor Avenue #4  
Auburn, Alabama 36830

**MOTION TO DISMISS WITH PREJUDICE  
FOR MISCONDUCT OF THE PLAINTIFF**

CITY OF AUBURN,

Plaintiff,

v.

WILLIAM S. McLAURINE

Defendant

Action No(s): CC-05-289  
MC04-0060431  
04015246

STATE OF ALABAMA  
In the Circuit Court  
of Lee County

**FILED**  
NOV 22 2005

IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK

The Defendant comes before the court to request a MOTION TO DSIMISS WITH PREJUDICE.

AS GROUNDS FOR THE MOTION the defendant maintains that the defendants rights have been repeatedly violated in this matter, and presents the following:

- 1) Violation of Fourth amendment by arresting the defendant for failure to identify himself to police officers.
- 2) Discrimination base on race and national origin by the arresting officer.
- 3) Failure of the prosecution to provide discovery in a timely manner.
- 4) Failure of the prosecution to provide complete discovery.
- 5) Failure of this court to allow examination of evidence in possession of the prosecution, in order to determine if the evidence had been tampered with.
- 6) Postponement of Trial date in violation of speedy trial rules.
- 7) Holding Evidenciary and Withdrawal Hearings outside of my presence.
- 8) Assigning a contract employee of the City, Phil Thompson, as appointed counsel to the defendant, when the city of Auburn was aware of a complaint and possible lawsuit.
- 9) Improper conduct by Phil Thompson, for refusing to provide a spirited defense and attempting to withdraw from the case for refusal to accept a deal in which the defendant would be required to sign a civil release.

10) Intimidation by Phil Thompson, in which Thompson pointed out the case of "Rober" (pronounced like the French Robert). Thompson insinuated that I would face further criminal charges and be "tried as a terrorist," if I attempted to sue the city.

11) Violation of right to be heard in court under all common law principles, but specifically Article I, Section 6 of the Alabama Constitution, when Phil Thompson indicated that, If I did not pose all questions of the court through him, he would not defend me anymore.


12) Violation of due process in municipal trial by the prosecuting attorney including but not limited to improper use of a prosecuting attorney, and violation of right to petition by Rick Davidson.

13) Violation of due process by Judge Joe Bailey in the procedure and rulings of the original municipal trial.

WHEREAS the defendant has demonstrated that the arrest and prosecution contain multiple violation of the defendants rights, and that this motion does not necessarily contain the full extent or the limit of those violations, the defendant request the court grant an ORDER TO DISMISS WITH PREJUDICE.

November 22, 2005

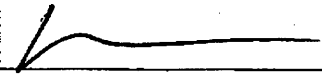
Date

  
\_\_\_\_\_  
William McLaurine, defendant  
222 Tichenor Avenue #4  
Auburn, Alabama 36830

I certify the delivery and/or mailing of this document, MOTION TO DISMISS WITH  
PREJUDICE FOR MISCONDUCT OF THE PLAINTIFF to Mathew White,

November 22, 2005

Date

  
\_\_\_\_\_  
William McLaurine, defendant  
222 Tichenor Avenue #4  
Auburn, Alabama 36830

**EXHIBIT P-1**  
**TELEPHONE TRANSCRIPT**

Exhibit A-1. Transcript of complaint call

04322.WAV transcript

Estimated length 1:36.

Operator: Auburn Emergency 911

Caller: Yeah, there's a mysterious man, walking on, Ah, Glenn towards Donahue.

Operator: Towards where?

Caller: Towards Donahue.

Operator: From which direction, where, where

Caller: From college. From college.

Operator: To Donahue, on Glenn.

Operator: What's suspicious about him?

Caller: He's, He's stopping, and, and, looking, and, and he has something in his hand.

Caller: That's all I saw.

Operator: Ok, Um. What's he wearing?

Caller: Do What?

Operator: What is he wearing.

Caller: Ah, grey shirt.

Operator: Grey shirt, is he a white male, or a black male?

Caller: White. With black pants.

Operator: OK, Um, What's your name sir?

Caller: My name?

Operator: Yes, sir.

Caller: Ah, Ah, my name is Ron.

Operator: You said, Ron?

Caller: Yes.

Operator: OK, and what's the number you're calling from?

Caller: Ah, I don't wish to give that out?

Operator: OK, that

Caller: All right.

Operator: Thanks.

Caller: Thanks.

Operator: Thank you for the info sir

Caller: Thank you.

Operator: No problem.

I CERTIFY THIS TO BE A VALID  
PHOTOCOPY OF AN ORIGINAL DOCUMENT.

**EXHIBIT P-2  
COURT TRANSCRIPT**



**COPY**

1

IN THE MUNICIPAL COURT

FOR

AUBURN, ALABAMA

CITY OF AUBURN,

Plaintiff,

vs.

CIVIL ACTION NO.  
MC04-0060431

WILLIAM S. McLAURINE,

Defendant.

\* \* \* \* \*

PROCEEDINGS BEFORE THE HONORABLE JOE S.

BAILEY, reported by Lyn Daugherty, Certified  
Shorthand Reporter and Commissioner for the State  
of Alabama at Large, at the Auburn Municipal Court,  
Auburn, Alabama, on Thursday, March 31st, 2005,  
commencing at approximately 1:15 p.m.

\* \* \* \* \*

APPEARANCES

FOR THE PLAINTIFF:

Patrick C. Davidson, Esquire  
ADAMS, UMBACH, DAVIDSON & WHITE  
Attorneys at Law  
205 South 9th Street  
P.O. Box 2069  
Opelika, Alabama 36803-2069

FOR THE DEFENDANT:

William S. McLaurine, Pro Se

\* \* \* \* \*

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\* \* \* \* \*

3

1 THE COURT: Sir, you are charged  
2 with obstructing governmental  
3 operations. And you  
4 previously were before the  
5 Court and advised the Court  
6 that you understood that you  
7 had the right to be  
8 represented and that if you  
9 could not afford a lawyer the  
10 City would appoint a public  
11 defender to represent you. At  
12 that time you informed the  
13 Court that you did not want to  
14 be represented.

15 MR. McLAURINE: That's still the  
16 case.

17 THE COURT: All right. I'm going  
18 to ask you to sign this form.  
19 It's just our standard form  
20 that says we've talked about  
21 lawyers and you don't want  
22 one.

23 Thank you. How do you

4

1 plead to this charge? Guilty  
2 or not guilty?

3 MR. McLAURINE: Not guilty.

4 THE COURT: Are you going to call  
5 any witness to testify other  
6 than yourself?

7 MR. McLAURINE: Other than Officer  
8 Bean, no.

9 THE COURT: Is the prosecution  
10 ready to go forward?

11 MR. DAVIDSON: Yes, sir, Your  
12 Honor.

13 THE COURT: I'm going to ask  
14 everybody that's going to  
15 testify to please raise their  
16 right hand.

17 (All witnesses were sworn at this  
18 time.)

19 THE COURT: All right, Counselor,  
20 call your first witness.

21 \* \* \* \* \*

22 **OFFICER BEAN**

23 The witness, after having first been duly sworn

5

1 to speak the truth, the whole truth and nothing but  
2 the truth testified as follows:

3 DIRECT EXAMINATION

4 BY MR. DAVIDSON:

5 Q. Officer Bean, would you tell the Court  
6 whether or not you had an occasion to  
7 contact the defendant --

8 A. Yes, sir.

9 Q. -- back in November?

10 A. Yes, sir, I did.

11 Q. And on November 27th, 2004, about what time  
12 was it that you contacted the defendant?

13 A. Approximately 038 hours or 045 hours,  
14 somewhere in that time frame.

15 Q. Before we get to the actual contact, let's  
16 talk about first what, if anything, you  
17 were doing that evening on patrol?

18 A. Yes, sir. I was on routine patrol in the  
19 area of Glenn Avenue and Gay Street.

20 Q. About 12:30 or 12:45, what happened that  
21 led to your contact?

22 A. We were -- I received a call from dispatch  
23 to respond to the area of West Glenn Avenue

6

1 and North College Street in reference to a  
2 suspicious white male possibly looking into  
3 houses and stopping along the sidewalk on  
4 the -- probably the south side of the  
5 street on Glenn Avenue.

6 Q. Did the dispatch give you any more  
7 information?

8 A. They gave me a clothing description.

9 Q. What was that?

10 A. I can't remember offhand. I believe it was  
11 something tan at the time. Tan pants or  
12 jacket.

13 Q. Could it be dark pants?

14 A. Yes.

15 Q. If there's other evidence that says it was  
16 dark pants, you don't dispute that?

17 A. No, sir.

18 Q. Did you proceed to the area where the  
19 dispatch had said the call had come from?

20 A. Yes, sir.

21 Q. And where was that?

22 A. I -- It was at College and West Glenn  
23 Avenue. I didn't locate anybody upon that

7

1 area.

2 Q. What did you do next?

3 A. I continued to slowly drive down West Glenn  
4 passing Wright Street and come up on Toomer  
5 Street.

6 Q. Tell us what happened when you got to  
7 Toomer Street?

8 A. As I was passing Toomer Street, I looked  
9 down Toomer Street and saw a white male  
10 walking along the -- probably the west  
11 sidewalk fitting the description of the  
12 clothing thing we got.

13 Q. About how far away from you was the person  
14 when you first saw him?

15 A. Anywhere from 40 to 50 yards.

16 Q. What did you do?

17 A. I backed up and turned down Toomer Street  
18 and went to contact him.

19 Q. As you approached the defendant, what was  
20 he doing or what did you observe?

21 A. He was walking slowly down the sidewalk  
22 looking in the direction of houses just  
23 walking on the sidewalk. He wasn't in the

8

1 yard or anything.

2 Q. And you described his pace as slow?

3 A. Slow.

4 Q. What did you do when you got up close to  
5 where he was walking?

6 A. I advised dispatch that I'm out on the  
7 possible suspect and I told them I would be  
8 out on him.

9 Q. At that point did you -- were you able to  
10 tell the defendant to stop walking?

11 A. I got out and I called to him. And at  
12 first he continued to walk and I had to  
13 draw closer to him. And I called to him  
14 again and he finally stopped.

15 Q. At that point what, if anything, did you  
16 ask him?

17 A. I asked him what was his name and what was  
18 his reason for being in that area.

19 Q. What did he tell you?

20 A. He said, Officer, I really don't want to  
21 answer those questions; you know, I'm not  
22 doing anything; I'm just walking.

23 Q. Did you say anything else to him at that



1 point?

2 A. Yes, sir. I asked him for some  
3 identification. He refused. I asked him  
4 two or three other times for identification  
5 and he refused and also for his reason for  
6 being there.

7 Q. Okay. Did you ever tell him why it was  
8 that you were there?

9 A. Yes, sir.

10 Q. What did you tell him?

11 A. I told him that we had gotten a call about  
12 him walking in the area possibly looking  
13 into houses. I asked him also was he  
14 carrying any type of weapon.

15 Q. When you asked him that, what did he say?

16 A. He said, no, he wasn't. At that point in  
17 time I told him I was going to conduct a  
18 pat-down search. He had on a large  
19 jacket. He had some bulges in his pants  
20 and I was going to check and make sure he  
21 didn't have a weapon on him.

22 Q. Did you do that?

23 A. Yes, sir. He said he didn't mind.

10

1 Q. And did you find any weapons?

2 A. No, I didn't.

3 Q. What did you do next?

4 A. About that time Lieutenant Dorman showed up  
5 and we continued to try to get him to tell  
6 us who he was.

7 Q. Did you ask him the same question, what's  
8 your name?

9 A. Yes, sir.

10 Q. What did he tell you when you asked him  
11 again?

12 A. He just continued to tell me he was just  
13 out for a walk.

14 Q. Did at some point you ask him why it was  
15 that he wasn't giving you a name or what,  
16 if anything, he had as a reason of  
17 explanation for not doing that?

18 A. Yes, sir.

19 Q. What did you ask him?

20 A. I explained to him that when he's contacted  
21 by a law enforcement officer and he  
22 recognizes that fact that he has an  
23 obligation to give us his name and his

11

1 address and the reason for being in that  
2 area.

3 Q. What did he tell you in response to that?

4 A. He told me that -- He said, Officer, I  
5 understand your interpretation of the law,  
6 but I don't agree with it and I'm not going  
7 to give it to you.

8 Q. And this occurred -- he was still on the  
9 sidewalk?

10 A. Right.

11 Q. Where were you?

12 A. I was on the sidewalk with him.

13 Q. At some point you said Officer Dorman  
14 arrived on the scene?

15 A. Yes, sir.

16 Q. And did he make some attempts to talk to  
17 the defendant?

18 A. Yes, sir, he did.

19 Q. At some point there did you call for some  
20 assistance or to speak with one of your  
21 supervisors?

22 A. Yes, sir. I called Sergeant Matthews here  
23 and asked him to come to the scene to

12

1 further explain to him the law in this  
2 matter.

3 Q. So that we're clear at this point, have  
4 you, at this point in the chronology of the  
5 events, informed the defendant that you are  
6 a law enforcement officer and have you  
7 asked him does he recognize you as a law  
8 enforcement officer?

9 A. Yes, sir.

10 Q. And what did he say?

11 A. He said, Officer, I recognize you as a law  
12 enforcement officer, but I'm still not  
13 going to tell you my name. And during that  
14 process I also asked him for his wallet. I  
15 said, have you got any ID in your wallet?  
16 He says, I'm not going to tell you that.

17 Q. At some point did you ask him if he was a  
18 member of a militia?

19 A. Well, yes, sir, I did.

20 Q. And when you asked him that, what did he  
21 say?

22 A. He said, militia? I said, yeah, a  
23 militia. I said, there are some groups

13

1 that don't recognize the laws of this state  
2 or this nation and basically they will not  
3 give you any information based on their  
4 interpretation of the law.

5 Q. And, in fact, after y'all had that  
6 discussion, did you talk to Officer Dorman?

7 A. Yes.

8 Q. And then you called Sergeant Matthews?

9 A. Yes, sir, I did.

10 Q. What, if anything, did the defendant do  
11 while you were talking to Officer Dorman?

12 A. He kept telling us at one point that he was  
13 going to leave. And I explained to him he  
14 doesn't have the right to leave right now,  
15 we're conducting an investigation.

16 Q. Did you ever inform him you had a  
17 supervisor on the way?

18 A. Yes, sir, I did.

19 Q. After you told him the supervisor was on  
20 the way, what did the defendant do?

21 A. He stood there until Sergeant Matthews  
22 drove up.

23 Q. When Sergeant Matthews drove up, had you

14

1 already spoken with him over the radio or  
2 do you remember?

3 A. I believe I -- Yes, sir, I did.

4 Q. When Sergeant Matthews arrived, tell the  
5 Court what happened next.

6 A. Sergeant Matthews -- I informed Sergeant  
7 Matthews further on what's going on here,  
8 and he walked over to Mr. McLaurine and  
9 began to question him.

10 Q. We're going to talk with Sergeant Matthews  
11 in just a second about what he did from  
12 that point on. But later in the discussion  
13 after Sergeant Matthews arrived and talked  
14 to him, did you ever have an occasion to  
15 ask the defendant any other reason why he  
16 wouldn't be talking to you?

17 A. Yes, sir.

18 Q. What did you ask him?

19 A. Well, as we was waiting on Lieutenant --  
20 sorry -- Sergeant Matthews was -- went back  
21 to his unit to do something. I believe he  
22 went to call Lieutenant Howell. I asked  
23 him at one point -- just joking just to get

15

1 him to say something to us -- I said,  
2 you're not talking to me because I'm  
3 black?

4 Q. What did he say, if anything?

5 A. He just got a little smirk on his face and  
6 didn't say a word.

7 Q. Did you have any other conversations with  
8 the defendant at the scene before he was  
9 placed under arrest?

10 A. No, sir.

11 Q. And at any time --

12 A. Other than reading him his Miranda rights.

13 Q. Okay. At any time prior to him being  
14 placed under arrest, did he ever offer the  
15 information that you were asking for?

16 A. No, sir.

17 MR. DAVIDSON: That's all I have  
18 of this witness.

19 THE COURT: All right, sir. In a  
20 little while you're going to  
21 have an opportunity to tell me  
22 whatever you want to tell me.  
23 At this point I want to know

16

1 if you have any questions that  
2 you want to ask this witness.

3 MR. McLAURINE: Yes, sir, I do.

4 THE COURT: All right. Proceed.

5 CROSS-EXAMINATION

6 BY MR. McLAURINE:

7 Q. What observations did you make of me on the  
8 night in question prior to contacting me?

9 A. You mean on the sidewalk?

10 Q. (Nods head).

11 A. Yes, sir. I saw you slowly walking down  
12 the sidewalk looking in the direction of  
13 houses.

14 Q. Your police report and complaint you filed  
15 indicated that I was contacted while  
16 walking. Did you observe me stopping other  
17 than to address you?

18 A. No, sir.

19 Q. What procedures do you use to verify the  
20 information provided by the caller?

21 MR. DAVIDSON: Judge, I'm going to  
22 object to that question.

23 That's not at issue in this



17

1 case. It's not relevant if he  
2 uses any procedures. What's  
3 relevant is he did get a  
4 dispatch and he acted and  
5 responded thereto.

6 MR. McLAURINE: I understand that,  
7 Your Honor. But the motions I  
8 filed previously were on  
9 probable cause and reasonable  
10 suspicion, which you indicated  
11 would be reviewed at the time  
12 of the trial when the evidence  
13 was presented. This goes to  
14 probable cause.

15 THE COURT: State your question  
16 again.

17 Q. What procedures did you use to verify the  
18 information provided by the caller?

19 MR. DAVIDSON: Judge, this is in  
20 line of a civil question about  
21 a civil matter. If we're  
22 talking about what procedures  
23 the City of Auburn has in

18

1 place or what the officer  
2 uses, that's not relevant at  
3 this case in this matter. If  
4 he wants to ask him what his  
5 probable cause was, that's a  
6 fair question and we'll be  
7 glad to answer those.

8 MR. McLAURINE: Very well. I'll  
9 do that. I'm sorry. I need  
10 to find this particular  
11 document here. Procedures  
12 established in common law for  
13 verifying the veracity of  
14 anonymous callers require  
15 independent observation of  
16 police officers. That is what  
17 I'm particularly trying to  
18 address, what information or  
19 what actions did the officer  
20 take prior to contacting me to  
21 establish probable cause other  
22 than the call from the  
23 anonymous caller. That's

19

1 basically what I'm trying to  
2 get to here.

3 MR. DAVIDSON: Judge, that's all  
4 well and good, but this isn't  
5 the right time or place.

6 THE COURT: It's not any evidence  
7 before the Court, unless I had  
8 a mental lapse; that it was an  
9 anonymous call, is there?

10 MR. McLAURINE: The caller refused  
11 to identify himself or leave  
12 any way to contact, anything  
13 but his first name. He  
14 refused to have -- I have the  
15 audiotape if you want to hear  
16 it.

17 THE COURT: Huh-uh (negative  
18 response).

19 MR. DAVIDSON: Judge, the City has  
20 not offered that call. We're  
21 not here about what dispatch  
22 was told. We simply begin  
23 this case and are prosecuting

1 based on what the officer was  
2 told and what happened  
3 thereafter.

4 THE COURT: I'm going to sustain  
5 the objection and ask you to  
6 move forward.

7 MR. McLAURINE: All right.

8 Q. In the police report and complaint that you  
9 filed that I was in an abandoned  
10 neighborhood. Why do you think the area  
11 was an abandoned neighborhood?

12 A. I believe it was during the Thanksgiving  
13 break, holiday break where the majority of  
14 the students are out of town. And that's  
15 when we have the majority of our burglary  
16 calls.

17 Q. Have you seen the videotape from your car  
18 of the arrest?

19 A. No, sir, I have not.

20 Q. That evening do you recall that if the  
21 neighborhood was abandoned why you and your  
22 fellow officers waved by four other cars in  
23 the span of 10 minutes on the videotape?

21

1 A. You said wave?

2 Q. Yeah. There were four other cars that went  
3 by on the videotape where you had to wave  
4 them by because your car was blocking the  
5 road. If it was an abandoned neighborhood,  
6 why were those people allowed to pass  
7 through the neighborhood?

8 A. When I say abandoned, I mean there's hardly  
9 any residents there. Normally there's cars  
10 lining both sides of the street. Other  
11 than that, at that particular day it was  
12 abandoned. Nobody was there but you.

13 Q. No. I'm talking about moving cars. I'm  
14 not talking about parked cars. Four people  
15 drove past, one of which you personally  
16 waved by. I'm asking you, if the  
17 neighborhood was abandoned and no one  
18 should have been there, why weren't those  
19 people stopped and questioned by you and  
20 the other police officers?

21 A. Because you fit the description.

22 MR. McLAURINE: Okay. Your Honor,  
23 most of the rest of the

1 questions I have go to the  
2 probable cause and the  
3 strikage issues that you said  
4 would be dealt with after we  
5 hear the evidence. So I have  
6 no further questions at this  
7 time from this witness.

8 THE COURT: Any redirect?

9 REDIRECT EXAMINATION

10 BY MR. DAVIDSON:

11 Q. Officer Bean, at some point you told us in  
12 your prior testimony that the defendant was  
13 placed under arrest?

14 A. Yes, sir.

15 Q. You read him his rights?

16 A. Yes, sir.

17 Q. And he was handcuffed and transported to  
18 the county jail?

19 A. Yes, sir, he was.

20 Q. And he was charged for obstructing  
21 governmental operations?

22 A. Yes, sir, he was.

23 Q. And what was the operation that was

1 obstructed?

2 A. He had an obligation to give his name and  
3 address to a law enforcement officer when  
4 asked, especially in an official capacity.  
5 And he told me out of his own mouth that he  
6 recognized me as a law enforcement officer,  
7 and that's why he was placed under arrest  
8 under that statute.

9 MR. DAVIDSON: Okay. That's all I  
10 have of this officer.

11 THE COURT: Do you have any other  
12 questions?

13 MR. McLAURINE: Again, not until  
14 later.

15 THE COURT: Call your next  
16 witness.

17 \* \* \* \* \*

18 **SERGEANT MATTHEWS**

19 The witness, after having first been duly sworn  
20 to speak the truth, the whole truth and nothing but  
21 the truth testified as follows:

22 DIRECT EXAMINATION

23 BY MR. DAVIDSON:

1 Q. Sergeant Matthews, do you recall the  
2 incident we're talking about here today?

3 A. I do.

4 Q. And were you called to the scene that you  
5 heard described?

6 A. I was.

7 Q. About what time, if you remember?

8 A. I was called to the scene at approximately  
9 42 minutes after midnight.

10 Q. Tell the Court what you observed when you  
11 arrived there.

12 A. Officer Bean and Lieutenant Dorman were on  
13 the scene. Mr. McLaurine was standing on  
14 the sidewalk on the -- the sidewalk of  
15 Toomer Street in front of one of the  
16 two-story residences between Glenn Avenue  
17 and Genelda Avenue.

18 Q. What was the first thing you did upon  
19 arrival?

20 A. I met with Officer Bean to find out what  
21 the situation was that he needed my  
22 assistance with.

23 Q. Based on what y'all discussed, did you take



1 any action?

2 A. Yes. I approached Mr. McLaurine and  
3 identified myself as the patrol  
4 supervisor. I asked Officer Bean if he had  
5 been -- a pat-down search had been  
6 conducted because he had on a -- I believe  
7 it was a leather coat. Officer Bean said  
8 that he had. I asked if he had been  
9 Mirandized and I asked Officer Bean if he  
10 had his video equipment on. At that point  
11 I engaged Mr. McLaurine in a conversation  
12 about why he would not identify himself.

13 Q. Before you asked him why he wouldn't  
14 identify himself, did you ever ask him what  
15 his name was?

16 A. I did.

17 Q. What did he tell you?

18 A. He said that he wasn't going to answer that  
19 question.

20 Q. And then you asked him what his reasons  
21 were?

22 A. I did.

23 Q. What did he tell you?

1 A. He said that he did not feel like that he  
2 needed to answer that question. He didn't  
3 feel like that we had any reason to stop  
4 him.

5 Q. In response to that, what did you do?

6 A. I informed him that we had received a call  
7 from a complainant that the officer had  
8 stopped him based on an investigative stop  
9 to find out why he was in a neighborhood  
10 that is mostly unpopulated at this time of  
11 the night. And I explained to him that,  
12 you know, the officer had a duty to  
13 investigate any calls that he receives and  
14 also explained to him that he had a duty  
15 and was compelled to answer the basic  
16 identifying questions if the officer  
17 directed him to do so.

18 Q. You mentioned that it was mostly an  
19 abandoned neighborhood that particular  
20 night. Why is that?

21 A. It was during one of the holiday breaks and  
22 that neighborhood is the majority of  
23 University students. It's right next to

1 campus. During that time in the  
2 Thanksgiving break most of those houses and  
3 apartments are vacant. We have every  
4 season an increase in burglary activity in  
5 those areas. As a matter of fact, we had  
6 had one right across the street on Glenn  
7 Avenue either that night or the night  
8 before that had been reported.

9 Q. And were you aware of that when you arrived  
10 at the scene that evening?

11 A. Yes.

12 Q. And you explained to the defendant why you  
13 were asking for all this information?

14 A. Yes.

15 Q. Did he ever acknowledge or say that he  
16 didn't understand why you were asking --

17 A. He did not. As a matter of fact, he said  
18 that he understood that the law says that  
19 he was compelled to answer, but he did not  
20 agree with that interpretation. We  
21 discussed the recent Supreme Court ruling  
22 on that fact, and he said that he was aware  
23 of that ruling and did not agree with it.

1 Q. At some point did you inform the defendant  
2 that you needed to go to the car and make a  
3 phone call?

4 A. I did.

5 Q. And what did the defendant say when you  
6 told him that?

7 A. He said that he was going to go ahead and  
8 leave. At that point I informed him that  
9 he could not leave, and he said that he was  
10 going to leave unless I detained him. And  
11 I told him to consider himself detained.

12 Q. Did he ever take any steps to leave at that  
13 point?

14 A. He said that he was going to leave unless I  
15 physically detained him and started to take  
16 one step. And I put my left hand on his  
17 shoulder and I said, consider yourself  
18 physically detained at this point and I  
19 don't expect you to leave until I get back;  
20 I need to check with my supervisor and see  
21 if he wants to come to the scene for  
22 further conversation with him.

23 Q. Did you ask him if he was going to leave if

1       you removed your hand from him?

2       A.    I did.

3       Q.    What did he tell you?

4       A.    And he said that he would, and so I  
5       instructed Officer Bean to physically  
6       detain him until I returned. I explained  
7       to Mr. McLaurine that I just needed to make  
8       one phone call and it would only take a  
9       minute.

10      Q.    At that point Officer Bean and the  
11      defendant were together?

12      A.    Yes.

13      Q.    You made your call and then came back?

14      A.    That's correct.

15      Q.    Did you have any other communications with  
16      the defendant before Lieutenant Howell  
17      arrived?

18      A.    I did. When I finished with the phone  
19      conversation with Lieutenant Howell, I got  
20      out of the car. At this point  
21      Mr. McLaurine and Officer Bean and  
22      Lieutenant Dorman had moved in front of  
23      Officer Bean's patrol car in view of the

1 video camera, so they were actually  
2 standing in the street. I again approached  
3 Mr. McLaurine and offered him I guess what  
4 you would call a last chance and said, you  
5 know, I've called the shift commander. I  
6 again explained that all we needed was his  
7 name and address just to make sure that he  
8 wasn't a career burglar, a wanted person, a  
9 terrorist, you know, something like that;  
10 if he checked out clean and everything was  
11 fine, he would be free to go.

12 Q. And what, if anything, did he do?

13 A. He said he understood that, but he wasn't  
14 going to answer the question. And then I  
15 explained to him -- or I asked him if he  
16 was willing to go to jail over something as  
17 trivial as giving his name, and he said if  
18 that's what has to happen.

19 Q. What happened after Lieutenant Howell  
20 arrived?

21 A. When Lieutenant Howell arrived, I spoke  
22 with him very briefly. I had already  
23 explained the situation over the phone.

31

1 Lieutenant Howell had a short conversation  
2 with him and then we placed him under  
3 arrest.

4 Q. After he was placed under arrest, you, in  
5 fact, did another pat-down and obtained ID?

6 A. Correct. We searched his person incident  
7 to the arrest and found his wallet which  
8 contained his identification.

9 MR. DAVIDSON: That's all I have  
10 of this witness.

11 THE COURT: Do you have any  
12 questions of this witness?

13 MR. McLAURINE: Yes, sir, I do.

14 CROSS-EXAMINATION

15 BY MR. McLAURINE:

16 Q. You're sure that I tried to physically  
17 leave after I was physically contacted by  
18 police officers?

19 A. You did take a step away from me.

20 Q. Okay. You're sure that I said that I  
21 disagreed with the decision of the Supreme  
22 Court and not that I disagreed with your  
23 interpretation of the Supreme Court?

1 A. We discussed that point on two or three  
2 different occasions. I don't remember your  
3 exact words, but you made it very clear  
4 that you did not agree with my  
5 interpretation or the Court's  
6 interpretation. I told you I had just read  
7 the Court's decision, and you said that you  
8 didn't agree with it.

9 MR. McLAURINE: Okay. For now  
10 that's all I have of this  
11 witness.

12 THE COURT: Any redirect?

13 MR. DAVIDSON: No, sir.

14 THE COURT: Call your next  
15 witness.

16 MR. DAVIDSON: I think the City  
17 will rest at this point.

18 THE COURT: All right. Sir, at  
19 this time you can present  
20 whatever evidence you like.

21 MR. McLAURINE: Is it possible at  
22 this time to address probable  
23 cause?



33

1 THE COURT: Yes, sir. Go ahead.

2 MR. McLAURINE: In -- There's  
3 several issues of probable  
4 cause that I have issue  
5 with -- and reasonable  
6 suspicion. Principally the  
7 issue is Alabama v. White and  
8 Illinois v. Gates reference  
9 that police officers may not  
10 strictly use an anonymous  
11 phone call in order to -- or  
12 an unverified phone call  
13 unless the call represents  
14 immediate physical danger to  
15 the public or represents a  
16 felony charge. The actual  
17 call which I have here and I'd  
18 like to play for you so that  
19 you can hear what was actually  
20 made in the complaint call,  
21 the description of what was  
22 actually listed. May I do  
23 that now? I have a transcript

1 if you prefer to read it.

2 MR. DAVIDSON: Judge, I'm going to  
3 object to the introduction of  
4 the transcript. I think the  
5 tape is the best evidence, if  
6 it's the tape. I know what  
7 the City has provided, but I  
8 don't know if what he's going  
9 to give you is what the City  
10 provided.

11 MR. McLAURINE: Well, if the City  
12 would like to provide that,  
13 I'd be more than willing to  
14 listen to their version of it.

15 THE COURT: Let me back up. You  
16 started quoting those two  
17 cases and you said that it  
18 prohibited an officer from ...  
19 But you never got around to --

20 MR. McLAURINE: From using that  
21 solely. Basically the officer  
22 would have to perform  
23 independent observation of the

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subject to identify that what  
the caller said was probably  
true.

THE COURT: For -- To justify an  
arrest?

MR. McLAURINE: To justify  
probable cause.

THE COURT: -- Do you have copies of  
those cases with you?

MR. McLAURINE: No, sir, I don't.  
But I do have the citations in  
this addendum to the motion.

THE COURT: Does the City care to  
respond?

MR. DAVIDSON: Judge, without  
having the opportunity to see  
the cases and know what they  
say, I think it would be not  
very prudent at this point. I  
don't think we're dealing with  
probable cause to talk to  
him. I think that's being  
confused with probable cause

1 to make an arrest, which is a  
2 whole separate issue.

3 THE COURT: Do you want to give me  
4 those cites?

5 MR. McLAURINE: Yes, sir. I can  
6 give you this copy here.

7 There's several other  
8 issues that I want to raise on  
9 probable cause. Let me give  
10 you a copy as well. That's  
11 the gist of the first one.

12 The second one is --

13 THE COURT: Let me ask you this  
14 question: On this sheet of  
15 paper that you just handed me,  
16 under paragraph number two it  
17 says, the facts presented by  
18 the City of Auburn do meet  
19 grounds for probable cause per  
20 Harris --

21 MR. McLAURINE: That's a typo.  
22 I'm sorry. That should say do  
23 not. And that refers to --

1 The specific statute I'm  
2 charged with violating is  
3 15-5-30, I believe. This is a  
4 Xerox of the Alabama Code's  
5 commentary on 15-5-30. If  
6 you'll look at the second  
7 column here where it starts  
8 with driving, it specifically  
9 says that driving slowly in a  
10 neighborhood in the morning  
11 early is not the type of  
12 specific or factual basis to  
13 give rise to a particularized  
14 suspicion; that is, this  
15 particular person is engaged  
16 in wrongdoing. That's an  
17 Alabama citation. Basically  
18 what it's saying is that being  
19 in a neighborhood in the wee  
20 hours of the morning is not in  
21 and of itself probable cause.

22 MR. DAVIDSON: Judge, may I  
23 respond?

1 THE COURT: No. That's not what  
2 it says. It says driving a  
3 car slowly.

4 MR. McLAURINE: Okay. So you're  
5 distinguishing that there is a  
6 difference between suspicion  
7 between someone walking and  
8 someone driving?

9 THE COURT: I didn't say that. I  
10 just corrected your  
11 misstatement.

12 MR. McLAURINE: Do you agree that  
13 walking through a neighborhood  
14 in the wee hours of the  
15 morning is grounds --

16 THE COURT: I don't think it's my  
17 position to agree or disagree  
18 with that at this point.

19 MR. McLAURINE: All right. The  
20 third is the facts presented  
21 being in -- me being in -- the  
22 defendant being in an  
23 abandoned neighborhood are

1 false. The video evidence  
2 demonstrates that the area was  
3 not abandoned and there were  
4 four people -- four cars that  
5 passed through the area.  
6 Usage patterns and city  
7 records indicate that the area  
8 is not distinctly a  
9 residential neighborhood. The  
10 City has zoned the area as  
11 US. In the previous motion I  
12 gave a copy of this particular  
13 city ordinance indicating that  
14 the zone is used for  
15 residential, institutional --  
16 basically for University  
17 purposes -- and commercial  
18 uses as well.

19 My actual purpose for  
20 being in the neighborhood that  
21 evening was I was on my way to  
22 Subway, which is a restaurant  
23 a few hundred yards away that

1 was open until one o'clock in  
2 the morning.

3 The assertions by the  
4 City that this area was  
5 abandoned and had no -- nobody  
6 had any business being in that  
7 area are not true. Their  
8 argument is flawed.

9 Those are my issues for  
10 probable cause. I have  
11 reasonable suspicion issues as  
12 well, but if the prosecutor  
13 would like to respond to those  
14 in any way.

15 THE COURT: Mr. Davidson, do you  
16 care to respond to that  
17 presentation?

18 MR. DAVIDSON: Judge, first, we're  
19 not taking the position that  
20 he didn't have a right to be  
21 on the street. We're not here  
22 about whether or not you can  
23 be in a public sidewalk in an



41

1 area of town where students  
2 predominantly live who are out  
3 of town during that time  
4 period. What he's charged  
5 with is not the violation  
6 under Section 15, although  
7 that was an unlawful act and  
8 he could have been charged  
9 with that. What he is charged  
10 with is violation of  
11 13A-10-2, which is obstructing  
12 governmental operations. And  
13 at the very basis of that  
14 statute is when a person  
15 commits the crime of  
16 obstructing of governmental  
17 operations they can do that by  
18 committing some other unlawful  
19 act. In this case the  
20 unlawful act is not giving the  
21 information; the name, the  
22 identification. And we've got  
23 the intent clearly established

1 here. He's asked four or five  
2 or six or a dozen times do you  
3 recognize me as a police  
4 officer, do you understand the  
5 law says you have to answer  
6 and are you going to answer,  
7 and repeatedly he says no. So  
8 we think we've satisfied the  
9 intentional requirement of  
10 13A-10-2.

11 And then we've also  
12 established a violation of the  
13 other Code section, which  
14 quite frankly he could have  
15 been prosecuted for, which he  
16 is not being prosecuted for.  
17 But that establishes all the  
18 elements. If this is taken as  
19 some type of motion to dismiss  
20 at this juncture in the case,  
21 we would think the City has  
22 presented more than ample  
23 evidence not only to get past

1 this stage of the trial, but  
2 for a conviction.

3 THE COURT: Well, sir, I have not  
4 read the cases that you've  
5 given me citations for, but  
6 reading the -- this brief  
7 section of the notes after  
8 Section 15-5-30, it appears to  
9 me that you're confusing  
10 probable cause for an arrest  
11 and probable cause for a  
12 stop. But the stop that we  
13 have before the Court began as  
14 a noncustodial stop, and you  
15 just don't really have to have  
16 much probable cause to make  
17 one of those.

18 MR. McLAURINE: Okay.

19 THE COURT: And I think the fact  
20 the dispatch called and said  
21 the person was acting  
22 suspiciously in this  
23 neighborhood -- and I don't

1 want us to spend too much time  
2 on this abandoned issue. I'm  
3 supposed to come into every  
4 case blind, but I would be a  
5 village idiot if I didn't  
6 recognize that during the  
7 Thanksgiving break this town  
8 sort of disappears.

9 Do you have anything else  
10 that you want to say at this  
11 time?

12 MR. McLAURINE: I guess on  
13 probable cause, no. But I  
14 would like to address  
15 reasonable suspicion. I would  
16 also like to point out one  
17 other issue. I don't think  
18 the prosecutor was here at the  
19 other hearings in which we  
20 specifically identified that I  
21 would be charged with 15-5-30  
22 and it was amended to the  
23 record. I don't know if he

1 was aware of that. Do you  
2 recall doing that?

3 THE COURT: I don't have  
4 independent recollection of  
5 that. That's why I write  
6 everything down.

7 MR. DAVIDSON: Your Honor, I can  
8 say on behalf of the City,  
9 we're prosecuting this case  
10 today until the City rests,  
11 which -- under 13A-10-2, which  
12 is what he was charged with  
13 the night of the incident.

14 THE COURT: It seems to me like,  
15 if my memory is jogged a  
16 little bit, if I'm recalling  
17 correctly, the City indicated  
18 that they were going to go for  
19 it under both of those  
20 statutes; is that correct?

21 MR. McLAURINE: It was both parts  
22 of 13-10-2-A [sic], and it was  
23 my prompting that basically

1 made you realize that -- The  
2 point about it is is there's  
3 nothing in 13-10-2-A that  
4 specifically says I have to  
5 give my identification to a  
6 police officer when  
7 presented. It basically gives  
8 a vague thing basically saying  
9 if you interfere with a  
10 legitimate government  
11 process. 15-5-30 establishes  
12 that under certain conditions  
13 police officers do have the  
14 right under Alabama law to  
15 demand identification. The  
16 question that we're dealing  
17 with here in reasonable  
18 suspicion is -- that's --  
19 we're doing multiple --

20 THE COURT: Mr. McLaurine, let's  
21 do this. Let's go ahead with  
22 this trial and let's do all of  
23 this argument after all of the

1 evidence is presented.

2 MR. McLAURINE: May I quickly  
3 address reasonable suspicion?  
4 Because that's very relevant  
5 to the case.

6 THE COURT: I just got through  
7 telling you that I wanted to  
8 have argument after all the  
9 evidence is admitted. Do you  
10 have any evidence you want to  
11 admit?

12 MR. McLAURINE: Yes, sir. I have  
13 what was presented in  
14 discovery to me.

15 THE COURT: Well, let's go forward  
16 with that.

17 MR. McLAURINE: The audiotape, I'd  
18 like to play it if the  
19 prosecutor --

20 THE COURT: Does the City have any  
21 objection?

22 MR. DAVIDSON: Judge, only to the  
23 extent that I don't know

1                   what's on the tape, but for --  
2                   I don't know if there's been  
3                   any alterations. I'm not  
4                   suggesting there is. But I  
5                   know what was given to me and  
6                   it is on a CD that the Court  
7                   can hear and I'll agree to put  
8                   that into evidence. You don't  
9                   have to listen to it right  
10                  now, but you can take that  
11                  under advisement.

12               MR. McLAURINE: If they want to  
13               play that one, I don't have an  
14               objection to doing that.

15               THE COURT: How long is it?

16               MR. McLAURINE: The whole thing is  
17               10 minutes, but we only need  
18               the first few minutes because  
19               that's just the call. It's  
20               like 90 seconds, I believe,  
21               something like that.

22               MR. DAVIDSON: Judge, with all due  
23               respect, we're going to play



1 the whole thing and we're  
2 going to give the Court every  
3 opportunity to listen to it.  
4 I don't have the ability to do  
5 it right here, but we can  
6 certainly offer it, let the  
7 Court go into chambers, put it  
8 in the computer and listen to  
9 it at this time or some other  
10 time when Mr. McLaurine can  
11 step back there with you and  
12 listen to it while we do some  
13 other business. Makes no  
14 difference to me.

15 THE COURT: Let's try to do that  
16 as soon as we get done with  
17 everything else. Go ahead and  
18 do it today.

19 MR. DAVIDSON: Okay.

20 MR. McLAURINE: I guess basically,  
21 Your Honor, I'll just say what  
22 I have to say, then, if we're  
23 going to do this afterward.

1 THE COURT: I understand that  
2 you're not an attorney, but do  
3 you have any more evidence you  
4 want to admit?

5 MR. McLAURINE: I'd like to tell  
6 my side of the story.

7 THE COURT: All right.

8 MR. McLAURINE: Basically I was  
9 walking on my way to Subway to  
10 get some food. The police  
11 officer pulled up. He stopped  
12 me. He asked me for ID. I  
13 refused. I asked him why he  
14 wanted identification. He  
15 said, we got a call about  
16 somebody carrying something.  
17 I told him I found that  
18 insufficient reason why I  
19 should have to tell him what  
20 I'm doing, that somebody was  
21 carrying something.

22 Most of the other facts  
23 are fairly close to what

51

1 happened. I disagree that I  
2 tried to leave after I was  
3 physically seized by the  
4 officers. I disagree that  
5 they told me they were going  
6 to pat me down before they  
7 started searching me. And I  
8 disagree with their assertion  
9 that I said I disagreed with  
10 the Court's decision. I told  
11 them that they needed to look  
12 at the details of the Court  
13 decision that they were  
14 referring to before they made  
15 a decision about arresting  
16 me. And the reason is because  
17 the Court decision itself --  
18 the name of it is Heibel --  
19 does not offer absolute  
20 authority for a police officer  
21 to demand identification from  
22 a person walking down the  
23 street.

1 And this basically comes  
2 down to I was walking down the  
3 street going to get something  
4 to eat and the police wanted  
5 to know what I'm doing. This  
6 is not the first time this has  
7 happened to me. And I --  
8 That's why I refused. I've  
9 done everything in my power to  
10 basically stop the police from  
11 continually harassing me at  
12 night and --

13 THE COURT: I don't want to get  
14 into any of that. We've got  
15 one charge.

16 MR. McLAURINE: That's fine. That  
17 was my motivation behind it.

18 Let's see. Other  
19 evidence I might have, other  
20 than what has already been  
21 introduced in previous  
22 motions, no.

23 THE COURT: Does the defense rest?

1 MR. McLAURINE: Yes, sir.

2 THE COURT: Argument?

3 MR. DAVIDSON: Judge, you already  
4 heard the City's position how  
5 we're traveling under  
6 violation of a statute that  
7 rises to obstructing  
8 governmental operations.  
9 Title 15 requires the  
10 defendant to identify  
11 himself. He didn't do that.  
12 Under 13A-10-2 we've told the  
13 Court the person can commit  
14 the crime of obstructing  
15 governmental operations if  
16 they commit some other  
17 independently unlawful act  
18 intentionally. We think we've  
19 established that element and  
20 we think the unlawful act is  
21 the Title 15 problem.

22 THE COURT: All right, sir. Do  
23 you have any argument you want

1 to give me?

2 MR. McLAURINE: Yes, sir. On the  
3 reasonable suspicion issue,  
4 the actual phrasing of  
5 15-5-30, which is the statute  
6 that I'm accused of unlawfully  
7 doing, it says the officer  
8 must have reasonable suspicion  
9 that a crime is about to be  
10 committed, has been committed,  
11 such-and-such basically along  
12 those lines.

13 Terry v. Ohio, the Terry  
14 stop case, the Court quoted a  
15 lower court when describing  
16 someone who saw someone  
17 casing -- identification. The  
18 description in the -- in Terry  
19 v. Ohio is of an officer  
20 seeing three men walk back and  
21 forth in a pattern 24 times  
22 obviously casing a building  
23 and what appeared to him to be

1 conspiring to rob the joint --  
2 rob the building.

3 The lower court stated in  
4 the Supreme Court quoting that  
5 it would be stretching the  
6 facts beyond reasonable  
7 comprehension to find that  
8 Officer McFadden had probable  
9 cause to arrest the man before  
10 he patted him down for  
11 weapons.

12 THE COURT: Sir, you have just  
13 confirmed what I said  
14 previously. There's a  
15 difference between probable  
16 cause for an arrest and  
17 justification for a  
18 noncustodial stop, and I don't  
19 think you comprehend that  
20 difference.

21 MR. McLAURINE: Okay.

22 THE COURT: Those are two  
23 completely different things in

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the eyes of the law.

MR. McLAURINE: Okay.

THE COURT: Do you have further argument?

MR. McLAURINE: Only that I would like to call the officers back to describe what procedures they took under the first cause of the probable cause issue that they have to have in order to have reason to --

THE COURT: Arrest.

MR. McLAURINE: Well, I'm identifying probable cause as reason to stop and reasonable suspicion as cause to arrest. If my terminology is wrong, I apologize. But that's what I'm -- basically what I'm arguing.

THE COURT: What specific question or questions do you want to ask?



1 MR. McLAURINE: I want to know  
2 what independent actions the  
3 police took to verify what the  
4 caller basically had to say  
5 and that the -- the caller  
6 actually alleged that a crime  
7 was being committed. Because  
8 if there was no crime being  
9 committed, then it's basically  
10 hearsay, as I understand it,  
11 what the complaint call was.

12 MR. DAVIDSON: Your Honor, the  
13 defendant has rested. There  
14 is no provision allowing him  
15 to call another witness at  
16 this point.

17 MR. McLAURINE: This is the  
18 reasonable suspicion issue  
19 that you said you wanted to  
20 handle after the arguments.

21 THE COURT: I said I wanted to  
22 hear the argument regarding  
23 that issue. I would not -- I

1 would have sustained an  
2 objection to that had we gone  
3 forward with that line of  
4 questioning earlier.

5 Again, I want to state  
6 that I think that you, in your  
7 legal research, have  
8 misconstrued what is required  
9 for an officer to make a  
10 noncustodial stop versus what  
11 is required to support a valid  
12 arrest. Now, do you want to  
13 give any argument regarding  
14 the total case as to why the  
15 Court should find you not  
16 guilty?

17 MR. McLAURINE: Other than that,  
18 Your Honor, other than I was  
19 walking down the street. I  
20 feel that they need a  
21 reasonable -- that a crime was  
22 being committed. They have to  
23 have some form of information

1                   indicating that a crime was  
2                   being committed in order for  
3                   them to stop me -- or about to  
4                   be committed. And they've  
5                   presented no evidence that a  
6                   crime was committed or about  
7                   to be committed by me in any  
8                   way, shape or form.

9                   THE COURT: Anything else you want  
10                  to tell me?

11                 MR. McLAURINE: Other than the  
12                  previous motions and I'd like  
13                  to have the tape heard. Other  
14                  than that ...

15                 THE COURT: Mr. Davidson, do you  
16                  have any rebuttal?

17                 MR. DAVIDSON: Nothing further,  
18                  Your Honor.

19                 THE COURT: Well, what I'm going  
20                  to do is lay this file aside  
21                  for a brief period. Let's see  
22                  if we can get some of these  
23                  other folks out of here and

60

1 then we'll have a tape  
2 listening.

3 (Proceedings were concluded at  
4 approximately 2:00 p.m.)  
5

6 \* \* \* \* \*

7  
8 REPORTER'S CERTIFICATE

9 STATE OF ALABAMA:

10 MONTGOMERY COUNTY:

11 I, Lyn Daugherty, Certified Shorthand  
12 Reporter and Commissioner for the State of Alabama  
13 at Large, do hereby certify that I reported the  
14 proceedings in the matter of:

15 CITY OF AUBURN,

16 Plaintiff,

17 vs.

18 WILLIAM S. McLAURINE,

19 Defendant.

20 IN THE MUNICIPAL COURT FOR

21 AUBURN, ALABAMA

22 Civil Action No. MC04-0060431

23 on Thursday, March 31st, 2005.

61

1           The foregoing 59 computer-printed pages  
2 contain a true and correct transcript of the  
3 examination of said witnesses by counsel for the  
4 parties set out herein.

5           I further certify that I am neither of kin  
6 nor of counsel to the parties to said cause nor in  
7 any manner interested in the results thereof.

8           This 13th day of April 2005.

9  
10  
11  
12           Lyn Daugherty,  
13           Certified Shorthand Reporter  
14           And Commissioner for the  
15           State of Alabama at Large  
16  
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19  
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21  
22  
23

**MOTION IN LIMITING**

CITY OF AUBURN,

Plaintiff,

v.

WILLIAM S. McLAURINE

Defendant

) Action No(s): CC-05-289  
) MC04-0060431  
) 04015246  
)

) STATE OF ALABAMA  
) In the Circuit Court  
) of Lee County  
)  
)

The defense requests that prosecution and its witnesses be limited in the ability to introduce material pertaining to the telephone call prior establishing the proper predicate of independent police corroboration of anonymous telephone calls as required in *Barnette ex parte*, 624 So.2d 507 (Ala. Crim. App 1993).

November 29, 2005


Date

William McLaurine, defendant  
222 Tichenor Avenue #4  
Auburn, Alabama 36830

**FILED**  
NOV 29 2005  
IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK

I certify the delivery and/or mailing of this document, MOTION IN LIMITING to  
Mathew White,

November 29, 2005  
Date

  
\_\_\_\_\_  
William McLaurine, defendant  
222 Tichenor Avenue #4  
Auburn, Alabama 36830

**INTERROGATORY TO THE COURT**

CITY OF AUBURN,

Plaintiff,

v.

WILLIAM S. McLAURINE

Defendant

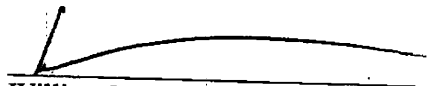
Action No(s): CC-05-289  
 MC04-0060431  
 04015246

STATE OF ALABAMA  
 In the Circuit Court  
 of Lee County

The defendant request that the court determine as a matter of law of the State of Alabama, based all appropriate material, if failure to produce a name, identification, and reason for being present in an area, at the demand of law enforcement agent, constitutes a crime enforceable under Alabama Law. It is further requested that the court determine this question for the cases of reasonable suspicion being present, and reasonable suspicion not being present.

November 29, 2005

Date

  
 William McLaurine, defendant  
 222 Tichenor Avenue #4  
 Auburn, Alabama 36830

**FILED**  
 NOV 29 2005

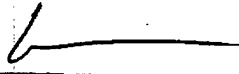
IN OFFICE  
 CORINNE T. HURST  
 CIRCUIT CLERK



I certify the delivery and/or mailing of this document, INTERROGATORY TO THE COURT to Mathew White,

November 29, 2005

Date

  
William McLaurine, defendant  
222 Tichenor Avenue #4  
Auburn, Alabama 36830

**NOTICE OF DEFENSE**

CITY OF AUBURN,

Plaintiff,

v.

WILLIAM S. McLAURINE

Defendant

Action No(s): CC-05-289  
 MC04-0060431  
 04015246

STATE OF ALABAMA  
 In the Circuit Court  
 of Lee County

This is formal notice of the some of DEFENSES raised by the defendant. This notice is not intended to exclude any defense from consideration at this time or any future time. The following defenses should be considered:

The law or laws used to prosecute the defendant are unconstitutional on some and/or all of the following grounds: Violation of the Fourth Amendment to the Constitution of the United States, and all of its provisions; Violation of the Fifth Amendment to the Constitution of United States, and all of its provisions; the law(s) being used to prosecute the defendant are VOID FOR VAGUENESS; Violation of some an/or all VESTED RIGHTS under the constitutions, statutory, and/or common law of the United States and/or the State of Alabama that allow citizens to refuse to respond to police during questioning and/or protect citizens from unlawful seizure.


**FILED**  
 NOV 29 2005

IN OFFICE  
 CORINNE T. HURST  
 CIRCUIT CLERK

The DEFENSES raised in this NOTICE should be considered to apply in all proceedings and considerations in this matter, including, but not limited, the burden of proof requirements placed on the prosecution for probable cause and/or reasonable suspicion.

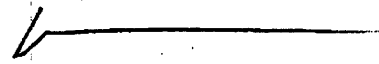
November 29, 2005

Date

  
 William McLaurine, defendant  
 222 Tichenor Avenue #4  
 Auburn, Alabama 36830

I certify the delivery and/or mailing of this document, NOTICE OF DEFENSE to Mathew White,

November 29, 2005  
Date

  
William McLaurine, defendant  
222 Tichenor Avenue #4  
Auburn, Alabama 36830

IN THE CIRCUIT COURT OF LEE COUNTY, ALABAMA

CITY OF AUBURN,

Plaintiff,

vs.

WILLIAM S. MCLAURINE,


Defendant.

CASE NUMBER: CC-05-289

ORDER

This matter came before the Court on the Docket Call on this date. At the request of the City of Auburn, Alabama Prosecutor, the trial of this case is continued to **May 1, 2006 at 9:00 a.m. in courtroom number four of the Lee County Justice Center.** A status conference is set for **March 21, 2006 at 9:00 a.m.** and all pending Motions will be argued at that time.

DONE this the 2<sup>nd</sup> day of December, 2005.

  
John V. Denson, II  
Circuit Judge

cc: Matthew W. White  
Mr. William McLaurine  
222 Tichenor Avenue, #4  
Auburn, Alabama 36830

FILED

DEC 02 2005

IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK

## IN THE CIRCUIT COURT OF LEE COUNTY, ALABAMA

CITY OF AUBURN,  
Plaintiff,

vs.

WILLIAM McLAURINE,  
Defendant.

Case No. CC 05-289

FILED

MAR 28 2006

IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERKORDER

This matter came before the Court pursuant to this Court's Order of December 2, 2005 setting the matter for a Status Conference and Hearing on all pending Motions. Present in Court was Mr. Matthew W. White, Prosecutor for the City of Auburn, and the Defendant, William S. McLaurine, *Pro Se*. Mr. McLaurine argued extensively on all pending Motions, basically contesting the "probable cause" for this arrest.

The facts as the Court understands them to be are:

In the early morning<sup>1</sup> of November 27, 2004 Officer Bean, Auburn Police Department (APD), responded to a telephone call from an anonymous caller, known only as "Ron," who stated that a "mysterious man" was walking on a particular street in Auburn. The caller stated that the man was stopping and looking in to various buildings and that he had something in his hand. The caller also gave the APD a general description of the clothing the man was wearing.

Officer Bean stated that APD was concerned about people walking around at this time of the night because this was during the Thanksgiving Holidays when many of the students were gone. The past experience of the APD is that it is during times like this, especially late at night, when the students are gone and their apartments are unattended, that a number of crimes, break-ins, burglary, etc., occur.

When the Officer responded to the call he arrived on the scene and observed the Defendant, walking slowly down the sidewalk. The Defendant met the description the Officer had received from the dispatcher at APD. The Defendant was stopped and questioned pursuant to §15-5-30, *Code of Alabama*, 1975, as amended. The Defendant refused to give the Officers his name, address, and reason for being in the area as required by §15-5-30 of the *Code*. Several other Officers arrived and also requested that

<sup>1</sup> About 12:30 or 12:45 AM, testimony of APD Officer Bean, Trial transcript, at p. 5.

the Defendant provide the required information. He continued to refuse to provide any information requested. The Officers then placed the Defendant under arrest for violation of §13A-10-2, *Code of Alabama*, 1975, as amended, for failure to provide information required by §15-5-30 of the *Code*.

The Defendant was convicted in the City Court of Auburn, Alabama, on April 20, 2005 of violation of §13A-10-2(a) (1) & (2), *Code of Alabama*, 1975, as amended. The Defendant gave notice of appeal of his being found Guilty of this offense by the City Court. This case is before this Court for a trial *de novo*.

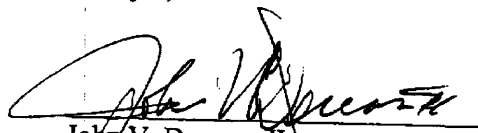
After hearing the arguments made by the Defendant as to all of his pending Motions, the Court **DENIES** each and every Motion and finds that there was "probable cause" for his arrest. The Court in making its determination of a finding that "probable cause" existed at the time of the arrest relies on *Hiibel V. 6<sup>th</sup> Judicial District of Nevada, Humboldt County*, 542 U.S. 177, 124 S.Ct 2451 (2004). The Court further finds that pursuant to the "stop and identify statute, §15-5-30 of the *Code*, and the telephone call from the unidentified caller, the Officers had "probable cause" to confront the Defendant and to ask him for his name, address and what he was doing in the area at this time of night. The Defendant's failure to provide the information pursuant to this section of the *Code* gave the Officers sufficient cause to arrest the Defendant for violation of §13A-10-2, of the *Code*.

The Defendant insists on representing himself and proceeding *pro se*, and has discharged his Court appointed attorney.

Therefore it is **ORDERED, ADJUDGED and DECREED** that:

- a. All pending Motions of the Defendant are **DENIED**; and,
- b. This case is set for Trial, *de novo*, on May 1, 2006.

DONE this 28<sup>th</sup> day of March, 2006.

  
John V. Denson, II  
Circuit Judge

Copy to:

Matthew W. White  
Mr. William McLaurine  
222 Tichenor Ave., #4  
Auburn, AL 36830

DENSON

Panels: 1, 2, 6, 9

IR210  
ER: PLCALABAMA JUDICIAL INFORMATION SYSTEM  
LEE COUNTY

STRIKE LIST BY: PANEL #

RUN DATE: 05/01/2006  
RUN TIME: 10:26:02

RM DATE: 05/01/2006 PANEL: ALL STATUS: A

BIKE JUROR#	JUROR'S NAME/COMMENTS	BIRTH DATE	SEX	RAC	PNL	STATUS	#DFR
H745.2956/C740.0774	HERBERT BYRON	12/19/1934	M	W	01	ACTIVE	00
H934.214.9772/W706.324.1234/C706.575.2629		02/03/1960	F	W	01	ACTIVE	01
H821.6322/C524.5234		12/12/1947	F	W	01	ACTIVE	00
H737.1983/W298.2554		03/06/1960	M	W	01	ACTIVE	00
0289779 HEILMAN URSULA JUNG H887.8069/C703.5190		09/11/1947	F	W	01	ACTIVE	00
011991 LEWIS CAROLINE MARSH C334.524.7791		03/05/1980	F	W	01	ACTIVE	00
035110 MILLER KENNETH NOLAN 749.6023/705.8408		10/22/1948	M	W	01	ACTIVE	03
012991 VANCE JOHN SPRINGER C524.4849/W821.3399		09/05/1949	M	W	01	ACTIVE	00
H745.3155/W705.8100/C444.2711		12/18/1957	F	B	01	ACTIVE	00
009938 BRACKETT DANNY JAY H749.9970/W705.8100/C703.7927		02/04/1966	M	W	01	ACTIVE	02
014491 BRACKIN MICHAEL GLENN H826.7820/W750.4110		01/06/1958	M	W	02	ACTIVE	00
004197 HENDERSON VICKIE CHARLYNE H826.5340/W745.7121/C332.8882		01/02/1970	F	B	02	ACTIVE	00
010111 HOFFMAN CHARLES EDWARD H749.1039		11/04/1954	M	W	02	ACTIVE	00
H887.7357/W844.3300/C703.6010		10/06/1957	M	W	02	ACTIVE	00
H745.4524		09/23/1933	M	W	02	ACTIVE	01
000032 MUSS GLENDA HUGHLEY H502.6745/W887.8038		09/01/1951	F	B	02	ACTIVE	00
H745.3258/W749.9487/C703.3976		07/02/1953	F	B	03	ACTIVE	01
H745.0947/C750.4033		04/19/1957	M	W	03	ACTIVE	00
H448.4873/W448.7037		06/23/1945	M	W	03	ACTIVE	01
H502.6757/W745.7062/C444.6102		01/10/1974	M	W	03	ACTIVE	01
H745.4155/W502.2343/C87.536.0237		08/11/1965	M	W	03	ACTIVE	00
H745.5269/C787.0165		04/09/1928	F	B	03	ACTIVE	00
H737.3026/W334.727.0540/C444.5855		01/31/1966	F	B	03	ACTIVE	00

City vs. William McLaurine  
Obstructing Gov. Eff.



R210  
ER: PLCALABAMA JUDICIAL INFORMATION SYSTEM  
LEE COUNTY  
STRIKE LIST BY: PANEL #PAGE: 2  
RUN DATE: 05/01/2006  
RUN TIME: 10:26:02

RM DATE: 05/01/2006

PANEL: ALL STATUS: A

JUROR'S NAME/COMMENTS	BIRTH DATE	SEX	RAC	PNL	STATUS	#DEF
H00.0274/W706.596.3301/C706.566.7104	04/07/1948	M	W	03	ACTIVE	00
H88.5085/W844.2289	11/21/1953	M	W	03	ACTIVE	00
H741.774	10/07/1937	F	W	04	ACTIVE	00
H821.5860/W706.683.8839/C334.332.4096	08/28/1949	W	W	04	ACTIVE	01
H501.5847/W706.4711/C750.2777	07/11/1951	F	W	04	ACTIVE	00
502.8400	05/11/1939	F	W	04	ACTIVE	00
H214.9005/W298.93	13/1960	M	B	04	ACTIVE	00
448.2515/706.257.137/W706.18.7546	04/25/1965	F	W	04	ACTIVE	03
H749.4333/W501.8807/0398	08/12/1979	M	W	04	ACTIVE	00
H745.6386/C707.04	07/16/1947	M	W	04	ACTIVE	00
H444.4821/W334.7.4471X506/34.559.1011	10/13/1953	M	W	05	ACTIVE	00
H298.6318/W706.4656/C706.566.32	01/16/1969	F	W	05	ACTIVE	00
H887.183/W706.645.4509	08/01/1948	M	W	05	ACTIVE	00
H887.25/W528.4002/C740.6919	03/06/1951	F	B	05	ACTIVE	01
H701.0172/W745.9711	08/19/1952	F	W	05	ACTIVE	00
745.6696/W745.2159/C444.1957	05/06/1957	M	W	05	ACTIVE	00
H298.7137/C706.315.0312	11/16/1942	W	W	05	ACTIVE	00
W887.7557	07/01/1975	M	W	05	ACTIVE	01
H297.8875/W706.641.3632/C706.366.0401	08/15/1955	F	W	06	ACTIVE	00
H297.8292/W298-0026/C706.688.5422						00
042314 BURKHALTER VERLYN MIMS 826.6395	10/16/1939	F	W	06	ACTIVE	00
H502.9603/W844.1862/C332.4639	11/01/1962	M	W	06	ACTIVE	00
045819 FLYNN CLAUDE VICTOR H745.0679/W745.5181/C332.0194	12/18/1932	M	W	06	ACTIVE	00



R2:0  
ER: FLCALABAMA JUDICIAL INFORMATION SYSTEM  
LEE COUNTY  
STRIKE LIST BY: PANEL #PAGE: 3  
RUN DATE: 05/01/2006  
RUN TIME: 10:26:02

RM DATE: 05/01/2006

PANEL: ALL

STATUS: A

RIKE JUROR#	JUROR'S NAME/COMMENTS	BIRTH DATE	SEX	RAC	PNL	STATUS	#DFR
028074	MAULDIN WILLIAM WILEY H826.3080/W501.0257/C728.2979	10/11/1943	M	W	06	ACTIVE	00
028074	MAULDIN WILLIAM WILEY H821.3614/W844.3638/C740.0820	07/06/1969	F	W	06	ACTIVE	00
028074	MAULDIN WILLIAM WILEY H826.1795/C444.0415	07/10/1984	F	W	06	ACTIVE	00
028074	MAULDIN WILLIAM WILEY H502.6104/C559.0904	09/04/1963	F	B	06	ACTIVE	00
028074	MAULDIN WILLIAM WILEY W501.5585/C334.275.1367	04/01/1981	M	W	07	ACTIVE	01
028074	MAULDIN WILLIAM WILEY H826.3080/W705.5550	10/14/1955	M	B	07	ACTIVE	00
028074	MAULDIN WILLIAM WILEY H749.7228/W501.0454	12/20/1937	M	W	07	ACTIVE	00
028074	MAULDIN WILLIAM WILEY WK 745.7599/GN 59.5746	03/1967	M	W	07	ACTIVE	00
028074	MAULDIN WILLIAM WILEY H502.4328	11/16/1949	M	W	07	ACTIVE	00
028074	MAULDIN WILLIAM WILEY H741.8555/W705.5340/05264	04/06/1962	M	W	07	ACTIVE	00
028074	MAULDIN WILLIAM WILEY H706.577.3181/06.322.2411	04/07/1944	M	W	07	ACTIVE	00
028074	MAULDIN WILLIAM WILEY H745.4514/024.5022	04/14/1956	M	W	08	ACTIVE	00
028074	MAULDIN WILLIAM WILEY H821.1125/W821.1127/C559.8494	07/01/1947	F	W	08	ACTIVE	01
028074	MAULDIN WILLIAM WILEY H821.8107/W826.8700/C332.1277	06/08/1947	F	B	08	ACTIVE	00
028074	MAULDIN WILLIAM WILEY H749.8674/W887.6688	10/04/1947	M	W	08	ACTIVE	00
028074	MAULDIN WILLIAM WILEY H742.2043/W742.9098/C524.7004	01/10/1971	F	B	08	ACTIVE	00
028074	MAULDIN WILLIAM WILEY H887.5618/W844.4987	09/07/1970	M	W	08	ACTIVE	03
028074	MAULDIN WILLIAM WILEY H887.5618/W844.4987	07/06/1961	F	B	08	ACTIVE	00
028074	MAULDIN WILLIAM WILEY H887.5618/W844.4987	05/02/1952	M	W	09	ACTIVE	00
028074	MAULDIN WILLIAM WILEY H745.0965/W745.9333	07/01/1947	F	B	09	ACTIVE	00
028074	MAULDIN WILLIAM WILEY H706.315.8650/W706.221.9536	09/12/1976	F	W	09	ACTIVE	00
028074	MAULDIN WILLIAM WILEY H291.0140/W480.8868/C706.442.0540	05/01/1963	F	B	09	ACTIVE	00
028074	MAULDIN WILLIAM WILEY H7969 NORTON HARVEY RUSSELL C706.570.0411	08/15/1959	M	W	09	ACTIVE	00

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JUROR#	JUROR'S NAME/COMMENTS	BIRTH DATE	SEX	RAC	PNL	STATUS	#DFR
100	H745.2433/W749.6168	05/05/1966	F	W	09	ACTIVE	00
101	H887.3173	10/18/1940	M	W	09	ACTIVE	00
188	021985 WOLFE PATRICIA ANN	07/09/1969	F	W	09	ACTIVE	00
102	H749.5760/W528.6867/C703.0191	07/23/1955	F	W	10	ACTIVE	00
103	H741.5423/W332.2146	09/02/1954	M	W	10	ACTIVE	00
104	063305 JONES WILLIAM RONALD 297.7450/298.4547	07/02/1951	M	W	10	ACTIVE	01
105	H821.0847/W887.3741	07/14/1960	M	W	10	ACTIVE	00
106	H749.4858/W705.8514	05/12/1969	F	W	10	ACTIVE	00
107	H298-0827/W706.681.5740/C706.681.2684	06/14/1975	M	W	10	ACTIVE	01
108	H887.0571/W706.571.5240/C706.326.5240	03/14/1975	F	W	10	ACTIVE	00
109	H749.8994/W706.77.1133	02/1958	M	W	11	ACTIVE	00
110	H448.9975/W706.570.2113/C448.537	09/09/1956	F	W	11	ACTIVE	01
111	H826.7416/W844.3180/C55.34	01/31/1961	F	B	11	ACTIVE	01
112	H334.214.0814/W334.85.5107	12/02/1964	M	B	11	ACTIVE	00
113	B87-5904/749-5651/74-319-0427	10/10/1978	M	W	11	ACTIVE	07
114	H749.0404/W741.08/332.3722	07/10/1947	F	W	11	ACTIVE	03
115	H887.8776/W706.4999/C334.703.5969	08/03/1960	F	W	11	ACTIVE	01
116	H749.1595/W706.2678/C703.1595	04/17/1964	F	W	11	ACTIVE	00
117	H741.931/W706.257.6522/C706.464.8229	05/08/1965	M	W	12	ACTIVE	00
118	H745.503/C444.7073	11/03/1952	F	W	12	ACTIVE	00
119	H82.0148/C334.728.0347	09/07/1936	F	W	12	ACTIVE	00
120	H749.0285/W749.3411/C559.8400	12/16/1963	M	W	12	ACTIVE	00
121	B21-9559	01/04/1942	M	W	12	ACTIVE	02

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LEE COUNTY  
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RIKE JUROR#	JUROR'S NAME/COMMENTS	BIRTH DATE	SEX	RAC	PNL	STATUS	#DFR
051 047787	WELCH VERNELL COOKS	12/19/1934	M	W	01	ACTIVE	00
053 067738	WELCH VERNELL COOKS	02/03/1960	F	W	01	ACTIVE	01
054 067738	WELCH VERNELL COOKS	12/12/1947	F	W	01	ACTIVE	00
055 067738	WELCH VERNELL COOKS	03/06/1960	M	W	01	ACTIVE	00
056 067738	WELCH VERNELL COOKS	09/11/1947	F	W	01	ACTIVE	00
057 067738	WELCH VERNELL COOKS	03/05/1980	F	W	01	ACTIVE	00
058 067738	WELCH VERNELL COOKS	10/22/1948	M	W	01	ACTIVE	03
059 067738	WELCH VERNELL COOKS	09/05/1949	M	W	01	ACTIVE	00
060 067738	WELCH VERNELL COOKS	12/18/1957	F	B	01	ACTIVE	00
061 067738	WELCH VERNELL COOKS	02/04/1966	M	W	01	ACTIVE	02
062 067738	WELCH VERNELL COOKS	01/06/1958	M	W	02	ACTIVE	00
063 067738	WELCH VERNELL COOKS	01/02/1970	F	B	02	ACTIVE	00
064 067738	WELCH VERNELL COOKS	11/04/1954	M	W	02	ACTIVE	00
065 067738	WELCH VERNELL COOKS	10/06/1957	M	W	02	ACTIVE	00
066 067738	WELCH VERNELL COOKS	09/23/1933	M	W	02	ACTIVE	01
067 067738	WELCH VERNELL COOKS	09/01/1951	F	B	02	ACTIVE	00
068 067738	WELCH VERNELL COOKS	07/02/1953	F	B	03	ACTIVE	01
069 067738	WELCH VERNELL COOKS	04/19/1957	M	W	03	ACTIVE	00
070 067738	WELCH VERNELL COOKS	06/25/1945	M	W	03	ACTIVE	01
071 067738	WELCH VERNELL COOKS	01/10/1974	M	W	03	ACTIVE	01
072 067738	WELCH VERNELL COOKS	08/11/1965	M	W	03	ACTIVE	00
073 067738	WELCH VERNELL COOKS	07/09/1928	F	B	03	ACTIVE	00
074 067738	WELCH VERNELL COOKS	01/31/1966	F	B	03	ACTIVE	00

City vs. William McLaurin  
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NAME JUROR'S NAME/COMMENTS	BIRTH DATE	SEX	RAC	PNL	STATUS	#DFR
H01.0274/W706.596.3301/C706.566.7104	04/07/1948	M	W	03	ACTIVE	00
H08.5085/W844.2289	11/21/1953	M	W	02	ACTIVE	00
H741.7124	10/07/1937	F		04	ACTIVE	00
H821.5860/W706.683.8839/C334.332.4096	08/28/1949		W	04	ACTIVE	01
H501.5847/W706.4711/C750.2777	07/11/1951	F	W	04	ACTIVE	00
502.8400	05/11/1939	F	W	04	ACTIVE	00
H214.9005/W298.93	13/1960	M	B	04	ACTIVE	00
448.2515/706.257.137	04/25/1965	F	W	04	ACTIVE	03
H749.4333/W501.8807/0398	08/12/1979	M	W	04	ACTIVE	00
H745.6386/C707.04	07/16/1947	M	W	04	ACTIVE	00
H444.4821/W334.7.4471X506/34.559.1011	07/13/1953	M	W	05	ACTIVE	00
H298.6318/W706.4656/C706.566.32	07/16/1969	F	W	05	ACTIVE	00
H887.183/W706.645.4509	08/11/1948	M	W	05	ACTIVE	00
H887.183/W528.4002/C740.6919	03/06/1951	F	B	05	ACTIVE	01
H701.0172/W745.9711	08/19/1952	F	W	05	ACTIVE	00
745.6696/W745.2159/C444.1957	05/06/1957	M	W	05	ACTIVE	00
H298.7137/C706.315.0312	11/16/1942		W	05	ACTIVE	00
W887.7557	07/01/1975	M		05	ACTIVE	01
H297.8875/W706.641.3632/C706.366.0401	08/15/1955	F	W	06	ACTIVE	00
H297.8292/W298-0026/C706.888.5422						00
826.6395	10/16/1939	F	W	06	ACTIVE	00
H502.9603/W844.1862/C332.4639	11/01/1962	M	W	06	ACTIVE	00
H745.0679/W745.5181/C332.0194	12/18/1932	M	W	06	ACTIVE	00



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JUROR#	JUROR'S NAME/COMMENTS	BIRTH DATE	SEX	RAC	PNL	STATUS	#DFR
189	011992 WEBSTER MARIE ENNIS H745.2433/W749.6168	05/05/1966	F	W	09	ACTIVE	00
	HB87.3173						00
	07/09/1969	F	W	09	ACTIVE	00	
087	017739 GRAY SARAH I H749.5760/W528.6867/C703.0191						00
	H741.5423/W332.2146	09/02/1954	M	W	10	ACTIVE	00
	291.7450/298.4547	07/02/1951	M	W		ACTIVE	01
	HB21.1884/W887.3741	07/14/1960	M		10	ACTIVE	00
	H749.4858/W705.8514	05/12/1969		W	10	ACTIVE	00
	H298-0827/W746.681.5740/C706.681.2684	06/14/1977	M	W	10	ACTIVE	01
	H297.0521/W706.771.5240/C706.326.5	03/14/1975	F	W	10	ACTIVE	00
	H749.8994/W706.771.1133						00
	H448.9975/W706.570.2113/C448.1337	02/1958	M	W	11	ACTIVE	00
	H826.7416/W844.3180/C55	09/09/1956	F	W	11	ACTIVE	01
	H334.214.0814/W334.85107	01/31/1961	F	B	11	ACTIVE	01
	887-5904/749-5651	12/02/1964	M	B	11	ACTIVE	00
	H749.0404/W741.518/332.3722	10/10/1978	M	W	11	ACTIVE	07
	H887.8776/W706.4999/C334.703.5969	07/10/1947	F	W	11	ACTIVE	03
	H741.931/W706.257.6522/C706.464.8229	08/03/1960	F	W	11	ACTIVE	01
	H741.931/W706.257.6522/C706.464.8229	04/17/1964	F	W	11	ACTIVE	00
	H741.931/W706.257.6522/C706.464.8229	05/08/1965	M	W	12	ACTIVE	00
	H745.5133/C444.7073	11/03/1952	F	W	12	ACTIVE	00
	H826.0148/C334.728.0347	09/07/1936	F		12	ACTIVE	00
	H745.0285/W749.3411/C559.8400	12/16/1963	M	W	12	ACTIVE	00
	B21-9559	01/04/1942	M	W	12	ACTIVE	02

City vs. William McGaurine Obstructing Sec. 81b  
CC.05-289 5-1-06

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Dept.  
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1-107

1-46 Alternate 1-183

IN THE CIRCUIT COURT OF LEE COUNTY, ALABAMA

CITY OF AUBURN,

PLAINTIFF,

vs.

WILLIAM S. MCLAURINE,

DEFENDANT.

CASE NO: CC-05-289

CITY'S REQUESTED JURY CHARGES

REQUEST #1

Asking questions is an essential part of police investigations. In the ordinary course a police officer is free to ask a person for identification without implicating the Fourth Amendment.

*Hiibel v. Sixth Judicial Dist. Court of Nevada, Humboldt County*, 542 U.S. 177, \*185, 124 S.Ct. 2451, \*\*2458 (U.S.Nev.,2004)

REQUEST #2

A brief stop of a suspicious individual, in order to determine his identity or to maintain the status quo momentarily while obtaining more information, may be most reasonable in light of the facts known to the officer at the time.

*Hiibel v. Sixth Judicial Dist. Court of Nevada, Humboldt County*, 542 U.S. 177, \*186, 124 S.Ct. 2451, \*\*2458 (U.S.Nev.,2004); citing *Adams v. Williams*, 407 U.S. 143, 146, 92 S.Ct. 1921, 32 L.Ed.2d 612 (1972).

**REQUEST #3**

Obtaining a suspect's name in the course of a *Terry* stop serves important government interests. Knowledge of identity may inform an officer that a suspect is wanted for another offense, or has a record of violence or mental disorder. On the other hand, knowing identity may help clear a suspect and allow the police to concentrate their efforts elsewhere.

*Hiibel v. Sixth Judicial Dist. Court of Nevada, Humboldt County*, 542 U.S. 177, \*186, 124 S.Ct. 2451, \*\*2458 (U.S.Nev.,2004).

**REQUEST #4**

The principles of *Terry* permit a State to require a suspect to disclose his name in the course of a *Terry* stop.

*Hiibel v. Sixth Judicial Dist. Court of Nevada, Humboldt County*, 542 U.S. 177, \*187-188, 124 S.Ct. 2451, \*\*2459 (U.S.Nev.,2004).

**REQUEST #5**

The request for identity has an immediate relation to the purpose, rationale, and practical demands of a *Terry* stop. The threat of criminal sanction helps ensure that the request for identity does not become a legal nullity.

*Hiibel v. Sixth Judicial Dist. Court of Nevada, Humboldt County*, 542 U.S. 177, \*188, 124 S.Ct. 2451, \*\*2459 (U.S.Nev.,2004).

**REQUEST #6**

A state law requiring a suspect to disclose his name in the course of a valid *Terry* stop is consistent with Fourth Amendment prohibitions against unreasonable searches and seizures.

*Hiibel v. Sixth Judicial Dist. Court of Nevada, Humboldt County*, 542 U.S. 177, \*188, 124 S.Ct. 2451, \*\*2459 (U.S.Nev.,2004)

**REQUEST #7**

generally ignorance or mistake of law is no defense."

*Boyd v. State* 2006 WL 250832, \*2 (Ala.Crim.App.) (Ala.Crim.App.,2006)

**REQUEST #8**

Ignorance of the law is no excuse. Citizens are deemed to have constructive knowledge of the



law.”

Howell v. State 618 So.2d 134, \*142 (Ala.Cr.App.,1992)

**REQUEST #9**

There is a presumption of law to the effect that every person intends to do that which he does, and the accused must be presumed to have designed not only what he did, but also the necessary consequences of his act. In other words, criminal intent necessarily follows from an act intentionally done, when such act is unlawful or criminal.

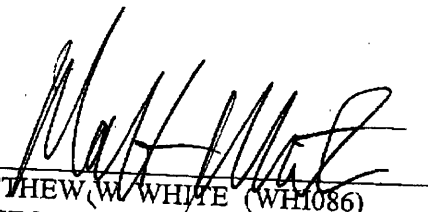
Weeks v. State 24 Ala.App. 198, \*199, 132 So. 870, \*\*871 (Ala.App. 1931)

**REQUEST #10**

It is true intent is generally an element of crime, but whatever one voluntarily does he of course intends to do, and whenever an act is criminal, the party doing the act is chargeable with criminal intent. Every person is presumed to know the law, and ignorance of the law does not excuse the perpetrator of an unlawful act.

Weeks v. State 24 Ala.App. 198, \*199, 132 So. 870, \*\*871 (Ala.App. 1931)

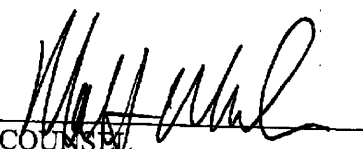
1.

  
MATTHEW W. WHITE (WH1086)  
PROSECUTOR, CITY OF AUBURN

**OF COUNSEL:**  
ADAMS, UMBACH,  
DAVIDSON & WHITE  
Post Office Box 2069  
Opelika, Alabama 36803-2069  
334-745-6466

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the foregoing upon Defendant, by hand delivery in open court; this the 1 day of May, 2006.

  
OF COUNSEL

Jury Charge.

The jury must ask the following questions:

Did the officer have reasonable suspicion, as required by statute 15-5-30, in order to stop the defendant for questions?

Did the officer articulate the facts of his suspicions to the defendant, in a complete manner?

Did the officer articulate the facts of his suspicions in a credible manner that could be understood and believed by the defendant?

Did the defendant lack a reasonable belief that the defendant was acting within his lawful rights?

Did the defendant take actions contrary to the law as charged in this case?

Did the defendant knowingly take actions contrary to the law as charge in this case?

If the jury fails to answer yes to any question they must vote "NOT GUILTY".

The defense delivered this document in  
Court

h  
William S. McLaurine

5-1-06

IN THE CIRCUIT COURT OF LEE COUNTY, ALABAMA

CITY OF AUBURN,

PLAINTIFF,

vs.

WILLIAM S. MCCLAURINE,

DEFENDANT.

CASE NO: CC-05-289

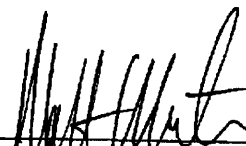
REQUESTED VOIR DIRE

1. Does any member of the jury panel know the Defendant, William McLaurine, or any member of his family?
2. Has any member of the jury panel ever been stopped by an Auburn Police officer, and felt for any reason that you were treated unfairly?

-Stopped by any police officer?

3. Me or my firm been on an opposite side of a case from you?
4. At the close of this case, the Judge will explain law to you - Is there anybody who cannot follow the law?

-Even if you disagree with it?

  
MATTHEW W. WHITE (WHI086)  
PROSECUTOR, CITY OF AUBURN

OF COUNSEL:  
ADAMS, UMBACH,  
DAVIDSON & WHITE  
Post Office Box 2069  
Opelika, Alabama 36803-2069  
334-745-6466

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the foregoing upon Defendant, by hand delivery in open court; this the 1 day of May, 2006.

  
\_\_\_\_\_  
OF COUNSEL

*Defendant's Request For DIRE*

Do you know or recognize any person who is a witness or part of the prosecution?

Do you know or recognize the defendant?

Do you believe the fact that the defendant is proceeding without an attorney might prevent you from accepting legal arguments or facts of the case presented by the defense?

Are you or any of your close relatives involved in the law enforcement community, including professional or social organizations such as the bar, or police associations?

Do you believe that racial discrimination or intimidation based on race is acceptable at any time during a police interrogation?

Do you have any difficulty understanding that the burden of proof is on prosecution, and each and every requirement of the law must be proven beyond a reasonable doubt?

Will you have any difficulty rendering a not guilty verdict based on legal reasoning that contradicts your own personal feelings on a subject?

Do you understand that simply being arrested is not enough to be convicted of a crime, and that it's your responsibility as jurors to act as the conscience of the community?

STATE OF ALABAMA  
LEE COUNTY

The Court Reporter having certified that the City's Exhibit No. 2  
is a VHS tape and the reproduction of said  
exhibit is difficult or impractical, I hereby certify that the same is on  
file in the office of the Circuit Clerk of Lee County.

Corinne T. Hurst  
Corinne T. Hurst, Circuit Clerk  
Lee County

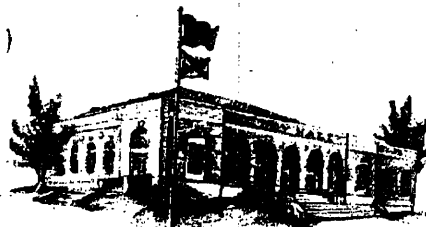
STATE OF ALABAMA

LEE COUNTY

The Court Reporter having certified that the reproduction of City's Exhibit No. / is difficult or impractical, I hereby attach said City's Exhibit No. / to this page of the transcript and certify the same as a part of the record.

Corinne Hurst  
Corinne Hurst, Circuit Clerk  
Lee County





EXHIBIT

City's #1

City of Auburn

Home of Auburn University

## CERTIFICATE

I, David F. Watkins, City Manager of the City of Auburn, Alabama, do hereby certify that the attached Ordinance is a true and exact copy of Ordinance No. 1130 as adopted by the City Council of the City of Auburn, Alabama, on the 18<sup>th</sup> day of August 1983 and is codified in the Code of Auburn, Alabama as Section 13-1.

Witness my hand, under the Seal of the City of Auburn, Alabama, this 1<sup>st</sup> day of October 2004.

  
\_\_\_\_\_  
City Manager

SEAL

## Chapter 13

**MISCELLANEOUS PROVISIONS AND OFFENSES****Sec. 13-1. State offenses adopted.**

(a) Any person committing an offense within the corporate limits of the city or within the police jurisdiction thereof, which is declared by a law of the state now existing or hereafter enacted to be a misdemeanor, shall be guilty of an offense against the city.

(b) Any person committing an offense within the corporate limits of the city, or within the police jurisdiction thereof, which is declared by a law of the state now existing or hereafter enacted to be a violation, shall be guilty of an offense against the city.

(c) Any person committing within the corporate limits of the city, or within the police jurisdiction thereof, an offense as defined by Section 13A-1-2 of the Code of Alabama which offense is not declared by a law of the state now existing or hereafter enacted to be a felony, misdemeanor or violation, shall be guilty of an offense against the city.

(d) Any person found to be in violation of subsections (a), (b) or (c) upon conviction shall be punished as provided in section 1-9 of this Code.

(Ord. No. 999, §§ 1—4, 1-8-80; Ord. No. 1130, §§ 1—4, 8-16-83)

**Cross references**—Violation of state statutes or rules on alcoholic beverages, § 3-4; enforcement of state law by police, § 18-2; adoption of penalty for violation of state law prohibition on driving under the influence of alcohol, § 22-10.5.

**Sec. 13-2. Accessory before the fact.**

Whoever aids in the commission of any offense punishable by any ordinance or is accessory thereto, whether he directly commits the act constituting the offense, or aids or abets in its commission, though not present, shall be arrested, and tried as principal.

(Code 1956, § 15-1)

**Sec. 13-3. Accessory after the fact.**

Any person who, knowing that another has committed a felony, and not occupying the legitimate relation of parent, child, brother, sister, husband or wife to such offender, conceals or gives any other aid to such offender with intent to enable him to avoid or escape from arrest, trial, conviction, or punishment is an accessory after the fact, and upon conviction shall be punished as provided in section 1-9 of this Code.

(Code 1956, § 15-2)

**Sec. 13-4. Use of weapons.**

(a) It shall be unlawful for any person to shoot, fire or discharge an air rifle, slingshot, rifle, pistol, shotgun or discharge gravel shooter, blowgun, rubber sling, or implement or device of like character anywhere within the corporate limits of the city.

ORDINANCE NO. 1130

BE IT ORDAINED by the City Council of the City of Auburn, Alabama, as follows:

Section 1. Any person or corporation committing an offense within the corporate limits of the City of Auburn, Alabama, or within the police jurisdiction thereof, which is declared by a law or laws of the State of Alabama now existing or hereafter enacted to be a misdemeanor, shall be guilty of an offense against the City of Auburn, Alabama.

Section 2. Any person or corporation committing an offense within the corporate limits of the City of Auburn, Alabama, or within the police jurisdiction thereof, which is declared by a law or laws of the State of Alabama now existing or hereafter enacted to be a violation, shall be guilty of an offense against the City of Auburn, Alabama.

Section 3. Any person or corporation committing within the corporation limits of the City of Auburn, Alabama, or within the police jurisdiction thereof, an offense as defined by Section 13A-1-2 of the Alabama Criminal Code, which offense is not declared by a law or laws of the State of Alabama now existing or hereafter enacted to be a felony, misdemeanor or violation, shall be guilty of an offense against the City of Auburn, Alabama.

Section 4. Any person found to be in violation of Sections One (1), Two (2) or Three (3) of this ordinance shall, upon conviction, be punished by a fine of not less than One Dollar (\$1.00) nor more than Five Hundred Dollars (\$500.00) and/or may be imprisoned or sentenced to hard labor for the City for a period not exceeding six (6) months, at the discretion of the Court trying the case, unless otherwise provided by Sections One (1), Two (2), or Three (3) of this ordinance shall, upon conviction, be punished by a fine of not less than One Dollar (\$1.00) nor more than Five Hundred Dollars (\$500.00), at the discretion of the Court trying the case.

ORDINANCE NO. 1130  
Page 2

Section 5. Any person found to be in violation of Section 32-5A-191, Code of Alabama, 1975, as amended, shall, upon conviction, be punished by a fine of not more than Five Thousand Dollars (\$5,000.00) and/or may be imprisoned or sentenced to hard labor for not more than one year.

Section 6. Any ordinance heretofore adopted by the City Council of the City of Auburn, Alabama, which is in conflict with this ordinance is hereby repealed to the extent of such conflict.

Section 7. If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

Section 8. This ordinance shall take effect upon its approval by the Mayor or upon its otherwise becoming law, but shall be published as required by law and codified as part of the Code of Auburn, Alabama, 1955.

ADOPTED AND APPROVED by the City Council of the City of Auburn, Alabama, this the 16th day of August, 1983.

Victor E. Vance  
President of the City Council

ATTEST:

Charles J. Watson  
City Manager

TRANSMITTED to the Mayor, this the 17th day of August, 1983.

Charles J. Watson  
City Manager

ACTION BY THE MAYOR

APPROVED this the 18th day of August, 1983.

James M. Dempsey  
Mayor

ATTEST:

Charles J. Watson  
City Manager

**NOTICE OF APPEAL OF PRETRIAL ORDER**

CITY OF AUBURN,

Plaintiff,

v.

WILLIAM S. McLAURINE

Defendant

Action No(s): CC-05-289

MC04-0060431

04015246

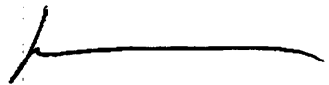
STATE OF ALABAMA

In the Circuit Court  
of Lee County

On or about March 28, 2006 Judge Denson issued an order in this case. This is a NOTICE OF APPEAL of the rulings of that order as per rule 3(a)2 of the Alabama Rules of Appellate Procedure, filed withing 42 days of the order, as required by rule 4(b)1. The defense request that the circuit clerk notify the proper parties of this notice.

May 8, 2006

Date

  
William McLaurine, defendant  
222 Tichenor Avenue #4  
Auburn, Alabama 36830  
(334) 524-2175

**FILED**  
MAY 08 2006

IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK

ACR371

ALABAMA JUDICIAL DATA CENTER  
 NOTICE OF APPEAL TO THE ALABAMA COURT OF CRIMINAL APPEALS  
 BY THE TRIAL COURT CLERK

STATE OF ALABAMA VS MCLAURINE WILLIAM S  
 IN THE CIRCUIT COURT OF LEE COUNTY  
 JUDGE: JOHN V. DENSON II

APPEAL DATE: 05/08/2006

## INDIGENCY STATUS:

GRANTED INDIGENCY STATUS AT TRIAL COURT:

APP. TRIAL COUNSEL PERMITTED TO W/D ON APPEAL: \_\_\_\_\_ YES ☒ NOINDIGENT STATUS REVOKED ON APPEAL: \_\_\_\_\_ YES ☒ NOINDIGENT STATUS GRANTED ON APPEAL: \_\_\_\_\_ YES ☒ NO

DEATH PENALTY: NO

APPEAL TYPE: MUNICIPAL CONVICTION

THIS IS AN APPEAL FROM A CONVICTION.

DATE OF CONVICTION: 05/01/2006

DATE OF SENTENCE: 05/25/2006

YOUTHFUL OFFENDER STATUS: DENIED

CO/CASE NUMBER: 43/CC 2005 000289.00

CODE: OGOP CONVICTION: OBSTRUCTING GOVT

ACTION: CONVICTED

STATUTE: 13A-010-002

SENTENCE: CONF: 00 YRS 03 MOS 000 DAYS

SENTENCE: PROB: 01 YRS 00 MOS 000 DAYS

LIFE: NO LIFEWO: NO

POST-JUDGMENT MOTIONS FILED: DT FILED

MOTION FOR NEW TRIAL \_\_\_\_\_

MOTION FOR JUDG. OF ACQUITT \_\_\_\_\_

MOTION TO W/D GUILTY PLEA \_\_\_\_\_

MOTION FOR ATTY TO W/DRAW \_\_\_\_\_

OTHER \_\_\_\_\_

DT DENIED \_\_\_\_\_ CON BY AGREE \_\_\_\_\_

COURT REPORTER(S):

ADDRESS:

APPELLATE COUNSEL #1:

ADDRESS:

PHONE NUMBER:

APPELLATE COUNSEL #2:

ADDRESS:

PHONE NUMBER:

APPELLANT (PRO SE):

ADDRESS:

AIS #:

APPELLEE (IF CITY APPEAL):

ADDRESS:

*Willie Bennett*  
*221 Tichenor Ave #4*  
*Auburn AL 36801*  
 PRO SE

000-000-0000 00000

MCLAURINE WILLIAM S  
 222 TICHENOR AVE #4  
 AUBURN AL 368300000  
 000000

*Patrick Davidson*  
*PO Box 2069*  
*Opelika AL 36803*

I CERTIFY THAT THE INFORMATION PROVIDED  
 ABOVE IS ACCURATE TO THE BEST OF MY  
 KNOWLEDGE AND I HAVE SERVED A COPY OF  
 THIS NOTICE OF APPEAL ON ALL PARTIES TO  
 THIS ACTION ON THIS 26 DAY OF May, 2006

OPERATOR: KAH  
 PREPARED: 05/26/2006

CIRCUIT COURT CLERK

**NOTICE OF APPEALS TO THE  
COURT OF CRIMINAL APPEALS OF ALABAMA**

WILLIAM S. McLAURINE

Appellant

v.

CITY OF AUBURN, and or  
THE STATE OF ALABAMA

Appellee

Action No(s): CC-05-289

MC04-0060431

04015246

STATE OF ALABAMA

In the Circuit Court  
of Lee County

Dates of Judgments: April 28, 2006;  
May 1, 2006; May 25, 2006

In this case, on or about April 28 and/or May 1, 2006 Judge Denson presided over proceedings that led to a conviction in a trial by jury. On or about May 25, 2006 the defendant/appellant was sentenced to \$500 in court cost and fines, 3 months incarceration, which was suspended, and one year of unsupervised probation. This is a NOTICE OF APPEAL of the orders, rulings, judgments, verdict(s), and sentences of those proceedings, as per rule 3(a)2 of the Alabama Rules of Appellate Procedure, (and others rules as may be required) filed withing 42 days of the orders and/or rulings, as required by rule 4(b)1.

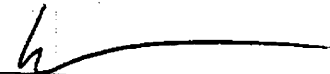
WHEREAS the 3 month incarceration is already suspended, The defendant/appellant waives stay of probation and fines as per §12-22-173 of the Code of Alabama. This notice of waiver of stay by the defendant/appellant does convey any concept, idea or method of recognition that this sentence is fair or appropriate. The completion of unsupervised probation will hasten the end of the duress experience by the defendant/appellant, and the defendant/appellant recognizes that any condition(s) of bond will be greater than unsupervised probation and the fines and fees already leveed.

June 1, 2006

Date

**FILED**  
JUN 01 2006

IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK

  
William McLaurine, defendant/appellant  
222 Tichenor Avenue #4  
Auburn, Alabama 36830  
(334) 524-2175

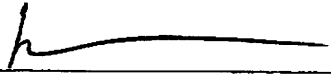
**ORDER TO THE CLERK AND/ OR MOTION TO APPEND  
THE RECORD ON APPEAL**

WILLIAM S. McLAURINE	)	Action No(s): CC-05-289
	)	MC04-0060431
Appellant	)	04015246
	)	STATE OF ALABAMA
v.	)	In the Circuit Court
	)	of Lee County
CITY OF AUBURN, and or	)	Dates of Judgments: March 29,
THE STATE OF ALABAMA	)	2006; April 28, 2006; May 1, 2006;
	)	May 25, 2006
Appellee	)	

On or about June 1, 2006 the defendant filed a NOTICE OF APPEALS TO THE COURT OF CRIMINAL APPEALS OF ALABAMA AND THE SUPREME COURT OF ALABAMA. The defendant/appellant requests that all information and/or proceeding of the clerk's record be included. The defendant is filing concurrent with this motion ARAP 1C- "Recorders Transcript Record-Criminal", for inclusion of transcripts. The defendant/appellant further requests that the RECORD ON APPEAL be amended to include information normally omitted from the RECORD ON APPEAL as per Rule 10 of the Alabama Rules of Appellate Procedure (hereafter referred to as ARAP).

The appellant requests that as per Rule 10(a)1 ARAP, that subpoenas or summons for any witness or the order therefor, and for the defendant be included in the RECORD ON APPEAL. The appellant requests that as per Rule 10(a)2 ARAP, motions and orders of continuance be included in the RECORD ON APPEAL. The appellant requests that as per Rule 10(a)4 ARAP, that all pretrial discovery material that is not made part of the trial court's proceedings be included in the RECORD ON APPEAL.

June 1, 2006  
Date

  
William McLaurine, defendant/appellant  
222 Tichenor Avenue #4  
Auburn, Alabama 36830  
(334) 524-2175

FILED

JUN 01 2006

IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK



**CERTIFICATE OF SERVICE**

WILLIAM S. McLAURINE	)	Action No(s): CC-05-289
	)	MC04-0060431
Appellant	)	04015246
	)	STATE OF ALABAMA
v.	)	In the Circuit Court
	)	of Lee County
CITY OF AUBURN, and or	)	
THE STATE OF ALABAMA	)	
	)	
Appellee	)	

The defendant attests that the devices entitled ARAP-1C "REPORTER'S TRANSCRIPT ORDER-CRIMINAL", and "ATTACHMENT TO ARAP 1C 'REPORTER'S TRANSCRIPT ORDER-CRIMINAL" were sent by registered mail to the following pursuant to the Alabama Rules of Appellant Procedure, including, but not limited to Rule 44 for appeals of Constitutional Law:

Judge John V. Denson II  
2311 Gateway Dr.  
Opelika, Alabama 36801

District Attorney Nick Abbot  
2311 Gateway Drive  
Opelika, Alabama 36801

Prosecutor Matthew White  
C/O Adams, Umbach, Davidson, & White  
Post Office Box 2069  
Opelika, Alabama 36803-2609

**FILED**  
JUN 01 2006  
IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK

Court of Criminal Appeals  
300 Dexter Avenue  
Montgomery, Alabama 368104

Willie Bennet  
C/O office of Judge John V. Denson II  
2311 Gateway Dr.  
Opelika, Alabama 36801

Janet Smith  
C/O office of Judge Walker  
2311 Gateway Dr.  
Opelika, Alabama 36801

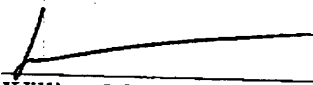
Kim Ingram  
709 Lee Road 34  
Opelika, Alabama 36804

Lyn Daugherty  
C/O Haislip Ragan, Green, Starkie, & Watson, P.C.  
566 South Perry Street #201  
Montgomery, AL 36104

Troy King  
Office of the Attorney General  
Alabama State House  
11 South Union Street, Third Floor  
Montgomery, AL 36130

Charles Duggan  
Office of the City Manager  
144 Tichenor Avenue, Suite 1  
Auburn, Alabama 36830

June 1, 2006  
Date

  
William McLaurine, defendant/appellant  
222 Tichenor Avenue #4  
Auburn, Alabama 36830  
(334) 524-2175

**CERTIFICATE OF SERVICE**

WILLIAM S. McLAURINE

Appellant

v.

CITY OF AUBURN, and or  
THE STATE OF ALABAMA

Appellee

Action No(s): CC-05-289  
MC04-0060431  
04015246  
STATE OF ALABAMA  
In the Circuit Court  
of Lee County

The defendant attests that the devices entitled ARAP-26 "COURT OF CRIMINAL APPEALS DOCKETING STATEMENT", "NOTICE OF APPEALS TO THE COURT OF CRIMINAL APPEALS OF ALABAMA", "ORDER TO THE CLERK AND/OR MOTION TO APPEND THE RECORD ON APPEAL", and "NOTICE TO ATTORNEY GENERAL OF CONSTITUTIONAL CHALLENGE" were sent by registered mail to the following pursuant to the Alabama Rules of Appellant Procedure, including, but not limited to Rule 44 for appeals of Constitutional Law:

Judge John V. Denson II

2311 Gateway Dr.

Opelika, Alabama 36801

Prosecutor Matthew White

C/O Adams, Umbach, Davidson, & White

Post Office Box 2069

Opelika, Alabama 36803-2609

District Attorney Nick Abbot

2311 Gateway Drive

Opelika, Alabama 36801

**FILED**  
JUN 01 2006

IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK

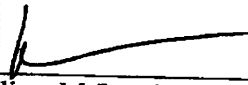
Court of Criminal Appeals  
300 Dexter Avenue  
Montgomery, Alabama 368104

Troy King  
Office of the Attorney General  
Alabama State House  
11 South Union Street, Third Floor  
Montgomery, AL 36130

Charles Duggan  
Office of the City Manager  
144 Tichenor Avenue, Suite 1  
Auburn, Alabama 36830

June 1, 2006

Date

  
William McLaurine, defendant  
222 Tichenor Avenue #4  
Auburn, Alabama 36830  
(334) 524-2175

**NOTICE TO ATTORNEY GENERAL OF  
CONSTITUTIONAL CHALLENGE**

WILLIAM S. McLAURINE )

Appellant )

v. )

CITY OF AUBURN, and or )  
THE STATE OF ALABAMA )

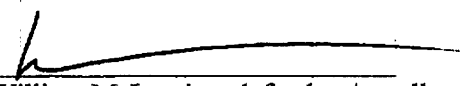
Appellee )

Action No(s): CC-05-289  
MC04-0060431  
04015246  
STATE OF ALABAMA  
In the Circuit Court  
of Lee County

This is notice to the Attorney General of Alabama that a challenge to the constitutional validity of a law of Alabama, and the law as adopted by City of Auburn, is being made. The appellant claims that that the law and statutes charged in this case are unconstitutional under either or both of the constitutions of Alabama and of the United States of America.

June 1, 2006

Date

  
William McLaurine, defendant/appellant  
222 Tichenor Avenue #4  
Auburn, Alabama 36830  
(334) 524-2175

**FILED**  
JUN 01 2006

IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK

State of Alabama Unified Judicial System Form ARAP- 26 (front) 8/91	<b>COURT OF CRIMINAL APPEALS          DOCKETING STATEMENT</b>	Criminal Appeal Number <u>CC-05-289</u>
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**A. GENERAL INFORMATION:**

☒ CIRCUIT COURT ☐ DISTRICT COURT ☐ JUVENILE COURT OF Lee COUNTY

William McLaurine Appellant

V. ☐ STATE OF ALABAMA ☒ MUNICIPALITY OF Auburn

Case Number <u>CC-05-289</u>	Date of Complaint or Indictment <u>May 2, 2005</u>	Date of Judgment/Sentence/Order <u>March 29, 2006</u>
Number of Days of Trial/Hearing <u>1 day trial / 7 day of sentencing</u>	Date of Notice of Appeal Oral: <u>May 25, 2006</u>	Written: <u>May 8, 2006</u>
Indigent Status Requested: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Indigent Status Granted: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <u>Granted, and then revoked</u>

**B. REPRESENTATION:**

Is Attorney Appointed or Retained? ☐ Appointed ☒ Retained.

Appellant's Attorney (Appellant if pro se) (Attach additional pages if necessary)  
William McLaurine If no attorney, will appellant represent self? ☒ Yes ☐ No

Address: 222 Tichenor Ave #4 City: Auburn Telephone Number: 334-524-2175

State: AL Zip Code: 36830

**C. CODEFENDANTS:** List each CODEFENDANT and the codefendant's case number.

Codefendant	Case Number
Codefendant	Case Number
Codefendant	Case Number

FILED

JUN 01 2006

IN OFFICE  
CORINNE J. HURST  
CIRCUIT CLERK

**D. TYPE OF APPEAL:** Please check the applicable block.

<input type="checkbox"/> 1 State Conviction	<input type="checkbox"/> 4 Pretrial Order	<input type="checkbox"/> 7 Juvenile Transfer Order	<input checked="" type="checkbox"/> 10 Other (Specify)
<input type="checkbox"/> 2 Post-Conviction Remedy	<input type="checkbox"/> 5 Contempt Adjudication	<input type="checkbox"/> 8 Juvenile Delinquency	<u>Combination of Pretrial Orders,</u>
<input type="checkbox"/> 3 Probation Revocation	<input type="checkbox"/> 6 Municipal Conviction	<input type="checkbox"/> 9 Habeas Corpus Petition	<u>Review of Trial, Sentencing, and Appellate</u>

**E. UNDERLYING CONVICTION/CHARGE:** Regardless of the type of appeal checked in Section D, please check the box beside each offense category for which the appellant has been convicted or charged as it relates to this appeal. Also include the applicable section of the Code of Alabama for State convictions.

<input type="checkbox"/> 1 Capital Offense - §	<input type="checkbox"/> 6 Trafficking in Drugs - §	<input type="checkbox"/> 11 Fraudulent Practices - §
<input type="checkbox"/> 2 Homicide - §	<input type="checkbox"/> 7 Theft - §	<input type="checkbox"/> 12 Offense Against Family - §
<input type="checkbox"/> 3 Assault - §	<input type="checkbox"/> 8 Damage or Intrusion to Property - §	<input type="checkbox"/> 13 Traffic - DUI - §
<input type="checkbox"/> 4 Kidnapping/Unlawful Imprisonment - §	<input type="checkbox"/> 9 Escape - §	<input type="checkbox"/> 14 Traffic - Other - §
<input type="checkbox"/> 5 Drug Possession - §	<input type="checkbox"/> 10 Weapons/Firearms - §	<input checked="" type="checkbox"/> 15 Miscellaneous (Specify):
<u>Obstruction of Justice - § 13A-10-2</u>		

**DEATH PENALTY:**

Does this appeal involve a case where the death penalty has been imposed? ☐ Yes ☒ No

**TRANSCRIPT:**

1. Will the record on appeal have a reporter's transcript? ☒ Yes ☐ No

2. If the answer to question "1" is "Yes," state the date the Reporter's Transcript Order was filed. June 1, 2006 (Date)

3. If the answer to question "1" is "No":

(a) Will a stipulation of facts be filed with the circuit clerk? ☒ Yes ☐ No

(b) Will the parties stipulate that only questions of law are involved and will the trial court certify the questions? ☐ Yes ☒ No

E. If the appeal is from the district or juvenile court and the answer to question "1" is "No," then a positive response is required for question 3(a) or 3(b).

Form ARAP-26 (back) 8/91

## COURT OF CRIMINAL APPEALS DOCKETING STATEMENT

H. POST-JUDGMENT MOTIONS: List all post-judgment motions by date of filing, type, and date of disposition (whether by trial court order or by the provisions of Rules 20.3 and 24.4 (ARCP)).

*Does not include oral filings*

DATE OF FILING			TYPE OF POST-JUDGMENT MOTION	DATE OF DISPOSITION		
Month	Day	Year		Month	Day	Year
May	8	2006	Appeal of Pretrial Order			
June	1	2006	ARAP-26, ARAP 16 w/ Attachment Notice of Appeal, 2			
			Notice to Amend Record of Clerk Note to			
			Attorney General of Constitution Challenge			

I. NATURE OF THE CASE: Without argument, briefly summarize the facts of the case.

The defendant was asked to provide name, identification, and ~~reason~~ explanation of actions. Defendant refused, and was charged with 13A-10-2 with mention of 15-5-30.

J. ISSUE(S) ON APPEAL: Briefly state the anticipated issues that will be presented on appeal. (Attach additional pages if necessary.)

Trial & Pretrial Orders Regarding Reasonable Suspicion, Probable Cause, & and Prima Facie Cases. Appeal of ~~motion~~ to Acquit, Due Process Consideration, ~~for~~ and Speedy Trial. New trial request. Appeal of Sentence.

K. SIGNATURE:

Date

6-1-06

Signature of Attorney/ Party Filing this Form



State of Alabama Unified Judicial System Form ARAP- 1C 8/91	<b>REPORTER'S TRANSCRIPT ORDER -- CRIMINAL</b> <small>See Rules 10(c) and 11(b) of the Alabama Rules of Appellate Procedure (A.R. App.P.)</small>	Criminal Appeal Number <u>CC-05-289</u>
---	--	--

TO BE COMPLETED BY COUNSEL FOR THE APPELLANT OR BY THE APPELLANT IF NOT REPRESENTED AND FILED WITH THE WRITTEN NOTICE OF APPEAL OR FILED WITHIN 7 DAYS AFTER ORAL NOTICE OF APPEAL IS GIVEN.

☒ CIRCUIT COURT ☐ DISTRICT COURT ☐ JUVENILE COURT OF Lee COUNTY

V. ☐ STATE OF ALABAMA ☒ MUNICIPALITY OF Auburn, Appellant

Case Number <u>CC-05-289</u>	Date of Judgment/Sentence/Order
Date of Notice of Appeal Oral: <u>May 25, 2006</u> Written: <u>June 1, 2006</u>	Indigent Status Granted: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <u>Granted &amp; Reviewed</u>

**PART 1. TO BE SIGNED IF THE APPEAL WILL NOT HAVE A COURT REPORTER'S TRANSCRIPT:**

I CERTIFY THAT NO REPORTER'S TRANSCRIPT IS EXPECTED AND THAT THE RECORD ON APPEAL SHALL CONSIST OF THE CLERK'S RECORD ONLY. IF THE APPEAL IS FROM DISTRICT COURT OR JUVENILE COURT, I ALSO CERTIFY (1) THAT A STIPULATION OF FACTS WILL BE INCLUDED IN THE CLERK'S RECORD AND THAT THE APPELLANT WAIVES HIS RIGHT TO A JURY TRIAL IF SO ENTITLED; OR (2) THAT THE PARTIES HAVE STIPULATED THAT ONLY QUESTIONS OF LAW ARE INVOLVED AND THAT THE QUESTIONS WILL BE CERTIFIED BY THE JUVENILE/DISTRICT COURT FOR INCLUSION IN THE CLERK'S RECORD (SEE RULE 28(A)(1), ALABAMA RULES OF JUVENILE PROCEDURE, AND §12-12-72, CODE OF ALABAMA 1975).

JUN 01 2006

Signature \_\_\_\_\_ Date \_\_\_\_\_ IN OFFICE CORINNE T. HILL, Clerk

**PART 2. DESIGNATION OF PROCEEDINGS TO BE TRANSCRIBED.** Request is hereby made to the court reporter(s) indicated below for a transcript of the following proceedings in the above referenced case (see Rule 10(c)(2), Alabama Rules of Appellate Procedure (A.R. App.P.)):

**MARK PROCEEDINGS REQUESTED:**

A. ☒ TRIAL PROCEEDINGS - Although this designation will include the judgment and sentence proceedings, a transcript of the organization of the jury and arguments of counsel must be designated separately.

B. ☐ ORGANIZATION OF THE JURY - This designation will include voir dire examination and challenges for cause. Note that in noncapital cases the voir dire of the jury will not be recorded unless the trial judge so directs. (See Rule 19.4, ARCP.)

C. ☒ ARGUMENTS OF COUNSEL - Note that in noncapital cases the arguments of counsel will not be recorded unless the trial judge so directs. (See Rule 19.4, ARCP.)

COURT REPORTER(S)  
Willie Bennett  
Kimberly Ingram

As listed in Dates

**IN ADDITION TO ANY PROCEEDINGS DESIGNATED ABOVE, SPECIAL REQUEST IS HEREBY MADE TO INCLUDE THE FOLLOWING PROCEEDINGS IN THE REPORTER'S TRANSCRIPT PORTION OF THE RECORD ON APPEAL. (ATTACH ADDITIONAL PAGES IF NECESSARY):**

ADDITIONAL PROCEEDINGS REQUESTED	DATE	COURT REPORTER(S)
D. <u>Municipal Court Transcript</u>	<u>March 31, 2005</u>	<u>Lyn Daugherty</u>
E. <u>Initial Appearance in Circuit Court</u>	<u>June 29, 2005</u>	<u>Justa Smith</u>
F. <u>Status Conference</u>	<u>March 21, 2006</u>	<u>Willie Bennett</u>
G. <u>Sentencing</u>	<u>March 25, 2006</u>	<u>Kimberly Ingram</u>

**IMPORTANT NOTICE:** The court reporter who reported the proceedings for which a transcript is requested must be identified on this form to be effective. Additionally, it is important to note that the appellant may not be permitted to raise any issue on appeal relating to any proceedings in the case that are not specifically designated on this form for inclusion in the reporter's transcript. A general designation such as "all proceedings" is not sufficient. (See Rule 10(c)(2), A.R. App.P.)

**PART 3. MUST BE SIGNED IF THE APPEAL WILL HAVE A COURT REPORTER'S TRANSCRIPT:**

I CERTIFY THAT I HAVE DISTRIBUTED THIS FORM AS SET OUT BELOW. I ALSO CERTIFY (1) THAT I HAVE MADE SATISFACTORY FINANCIAL ARRANGEMENTS WITH EACH COURT REPORTER LISTED ABOVE FOR PREPARING HIS OR HER PORTION OF THE REPORTER'S TRANSCRIPT HEREIN REQUESTED; OR (2) THAT THE APPELLANT PROCEEDED AT TRIAL AS AN INDIGENT AND THAT THAT STATUS HAS NOT BEEN REVOKED; OR (3) THAT THE APPELLANT HAS BEEN GIVEN PERMISSION TO PROCEED ON APPEAL IN FORMA PAUPERIS.

Signature See Attachment Date 6-1-06 Print or Type Name William McLaurine

**DISTRIBUTION:** Original filed with Clerk of Trial Court and copies mailed to: (1) Clerk of the Court of Criminal Appeals, (2) the District Attorney, (3) the Attorney General or the municipal prosecutor in lieu of the District Attorney and the Attorney General if the appeal is from a municipal conviction, and (4) to each Court Reporter who reported proceedings designated for inclusion in the reporter's transcript.

**ATTACHMENT TO ARAP 1C  
"REPORTER'S TRANSCRIPT ORDER- CRIMINAL"**

WILLIAM S. McLAURINE

Appellant

v.

CITY OF AUBURN, and or  
THE STATE OF ALABAMA

Appellee

Action No(s): CC-05-289  
MC04-0060431  
04015246

STATE OF ALABAMA  
In the Circuit Court  
of Lee County

**FILED**  
JUN 01 2006


IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK

The defendant has made arrangements for all court reporters except Willie Bennet. The appellant has made multiple attempts to obtain an estimate of the cost of the transcript(s) of Mr. Bennet records, but Mr. Bennet has been non-responsive. Judge Denson's Secretary has informed the appellant that Mr. Bennet is sick and unable to perform his duties.

The appellant wishes this attachment to be notice to Mr. Bennet, and the courts, that as soon as Mr. Bennet, or his agent contacts the defendant/appellant with an estimate, final price or other financial requirement, Mr. Bennet will be paid, whatever the amount. The appellant can do no more than this, and considers this to be a "satisfactory financial arrangement."

The appellant further requests that if extra time or special consideration needs to be dispensed by any court so that the transcript(s) of Mr. Bennet be included, that the appropriate court do so.

June 1, 2006  
Date

  
William McLaurine, defendant/appellant  
222 Tichenor Avenue #4  
Auburn, Alabama 36830  
(334) 524-2175

**MOTION FOR INCLUSION OF STATEMENTS OF FACT  
INTO THE RECORD ON APPEAL BY THE DEFENDANT/APPELLANT**

WILLIAM S. McLAURINE )

Appellant )

v. )

CITY OF AUBURN, and or )  
THE STATE OF ALABAMA )

Appellee )

Action No(s): CR-05-1600  
CC-05-289  
MC04-0060431  
04015246

STATE OF ALABAMA  
In the Circuit Court  
of Lee County


**FILED**  
JUN 27 2006

IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK

This is a MOTION to request that the AFFIDAVIT FOR INCLUSION IN THE RECORD ON APPEAL of the defendant/appellant be included in the RECORD ON APPEAL. Should a hearing be required to include this information in the RECORD ON APPEAL the defenendant/appellant MOVES that such a hearing be granted and further MOVES that a court reporter be present to record the event.

June 26, 2006

Date

  
William McLaurine, defendant/appellant  
222 Tichenor Avenue #4  
Auburn, Alabama 36830  
(334) 524-2175

**AFFIDAVIT FOR INCLUSION IN THE RECORD ON APPEAL**

WILLIAM S. McLAURINE )

Appellant )

v. )

CITY OF AUBURN, and or )  
THE STATE OF ALABAMA )

Appellee )

Action No(s): CR-05-1600  
CC-05-289  
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04015246STATE OF ALABAMA  
In the Circuit Court  
of Lee County**FILED**  
JUN 27 2006IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK

This is a statement of true facts by the defendant/appellant that may or may not be reflected in the RECORD ON APPEAL. The defendant/appellant believes that the facts presented in this AFFIDAVIT are relevant to consideration during the APPEAL. This affidavit is not meant to represent a comprehensive record of misconduct and/or errors by others, or a comprehensive record of events.

Phil Thompson was assigned to the defendant's/appellant's case as defense council. During the weeks leading up to the defendants arraignment Mr. Thompson, refused to meet with the defendant/appellant on multiple occasions. At the arraignment Mr. Thompson indicated that a meeting should be scheduled for the following week. At the scheduled meeting the following week Mr. Thompson indicated he had worked out a deal with the prosecution to drop charges in exchange for the defendant/appellant, William McLaurine, signing a civil release for the city of Auburn. The defendant/appellant refused. Mr. Thompson then told the defendant/appellant that the last person who tried to sue the city of Auburn was going to be tried as a terrorist. Mr. Thompson also said he would not help me get up on my "soapbox." Mr. Thompson then then said he would not discuss my case, because he was going to ask Judge Denson to allow Mr. Thompson to withdraw.

The next time the defendant/appellant saw Mr. Thompson was at the next court appearance the following week. At the time Mr. Thompson approached the

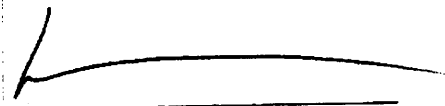
defendant/appellant and asked one question concerning video tape evidence. Mr. Thompson walked away after receiving a "yes" answer. At some point the defendant's/appellant's case came before Judge Denson. A discussion about postponing the trial so that the prosecution could complete discovery was going on. The defendant/appellant wanted to know how long it would take. Mr. Thompson indicated that I should not talk and that all communication to the court should go through Mr. Thompson. I asked if I could ask him a question now, and he said "no."

Mr. Thompson meet with defendant/appellant the following week. When asked what the Judge had said about allowing Mr. Thompson to withdraw, Mr. Thompson had indicated that Judge Denson had said the defendant/appellant would not be any easier to handle with another lawyer.

At one point, the defendant/appellant had raised with Judge Denson two facts regarding Mr. Thompson. The first was of the conflict of interest Mr. Thompson faced as a contract city employee and the potential civil action between the defendant/appellant. The second was the fact that the Mr. Thompson was willfully unprepared during the arraignment. The defendant/appellant requested to be arraigned again.

Prosecutor Mathew White was instructed to try and find the original video tape evidence, so that it could be examined by the defendant/appellant. The defendant/appellant secured a recording device for the purpose of acquiring a format consistent copy of the tape. Mr. White indicated that while the defendant/appellant would allow the defendant/appellant to view the original tape, the defendant/appellant would not be allowed to copy the tape.

June 26, 2006  
Date

  
\_\_\_\_\_  
William McLaurine, defendant/appellant  
222 Tichenor Avenue #4  
Auburn, Alabama 36830  
(334) 524-2175

**MOTION FOR NEW TRIAL**

WILLIAM S. McLAURINE )

Appellant )

v. )

CITY OF AUBURN, and or )  
THE STATE OF ALABAMA )

Appellee )

Action No(s): CR-05-1600  
CC-05-289  
MC04-0060431  
04015246STATE OF ALABAMA  
In the Circuit Court  
of Lee County**FILED**


JUN 27 2006

IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK

This is a MOTION for a NEW TRIAL. Based on the improper conduct of the prosecution and the Judge in this case, the defense requests a new trial. The misconduct has been describe in previous motions, information already in the record, and the concurrent filing of MOTION FOR INCLUSION OF STATEMENTS OF FACT INTO THE RECORD ON APPEAL BY THE DEFENDANT/APPELLANT. Should this court require further information to support this MOTION the defendant/appellant requests that a HEARING on this matter be granted. Should a hearing be necessary, the defendant/appellant MOVES that a COURT REPORTER be present to record the hearing.

June 26, 2006

Date

  
 William McLaurine, defendant/appellant  
 222 Tichenor Avenue #4  
 Auburn, Alabama 36830  
 (334) 524-2175

## CERTIFICATE OF SERVICE

WILLIAM S. McLAURINE

**Appellant**

**v.**

CITY OF AUBURN, and or  
THE STATE OF ALABAMA

**Appellee**

Action No(s): CR-05-1600  
CC-05-289  
MC04-0060431  
04015246

STATE OF ALABAMA  
In the Circuit Court  
of Lee County

The defendant/appellant attests that the devices entitled

## “MOTION FOR NEW TRAIL”

**"MOTION FOR INCLUSION OF STATEMENTS OF FACT INTO THE RECORD ON APPEAL BY THE DEFENDANT/APPELLANT"**

**"AFFIDAVIT FOR INCLUSION IN THE RECORD ON APPEAL"**

were sent by registered mail to the following:

Circuit Clerk's Office  
2311 Gateway Dr.  
Opelika, Alabama 36801


Judge John V. Denson II  
2311 Gateway Dr.  
Opelika, Alabama 36801

**Prosecutor Matthew White**

C/O Adams, Umbach, Davidson, & White  
Post Office Box 2069  
Opelika, Alabama 36803-2609

Court of Criminal Appeals  
300 Dexter Avenue  
Montgomery, Alabama 368104

June 26, 2006  
Date

  
\_\_\_\_\_  
William McLaurine, defendant  
222 Tichenor Avenue #4  
Auburn, Alabama 36830  
(334) 524-2175



IN THE CIRCUIT COURT OF LEE COUNTY, ALABAMA

**CITY OF AUBURN,**

**PLAINTIFF,**

**vs.**

**WILLIAM S. MCLAURINE,**

**DEFENDANT.**

FILED  
JUN 29 2006

JUN 29 2006

IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK

**CASE NO: CC-05-289**

**MOTION TO STRIKE DEFENDANT'S "AFFIDAVIT FOR  
INCLUSION IN THE RECORD ON APPEAL"**

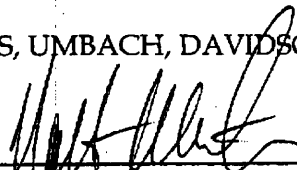
COMES NOW, the City of Auburn, by and through counsel, and moves this Honorable Court to strike Defendant's "Affidavit for Inclusion in the Record on Appeal." In support of said motion, the City states as follows:

1. There is no procedural mechanism which allows a defendant to file a self-serving affidavit or document which attempts to shape or misconstrue the official Clerk's record and transcript of this case.
2. The "Affidavit for Inclusion in the Record on Appeal," is not in the proper form of an affidavit and is due to be stricken for that reason alone.
3. The "Affidavit for Inclusion in the Record on Appeal," is essentially the Plaintiff's unsolicited testimony, which is not subject to cross examination. Defendant had ample opportunity to testify at trial, and did so. To allow the Defendant to again testify via affidavit is improper.

WHEREFORE, The City of Auburn moves this Honorable Court to strike Defendant's "Affidavit for Inclusion in the Record on Appeal."

Respectfully submitted this the 29 day of June, 2006.

ADAMS, UMBACH, DAVIDSON & WHITE, LLP

  
\_\_\_\_\_  
MATTHEW W. WHITE (WHI086)  
City Prosecutor  
P.O. Box 2069  
Opelika, AL 36803-2069  
(334)745-6466

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the above and foregoing upon:

William McLaurine  
222 Tichenor Avenue #4  
Auburn, AL 36830

Done this the 29 day of June, 2006.

  
\_\_\_\_\_  
OF COUNSEL

## IN THE CIRCUIT COURT OF LEE COUNTY, ALABAMA

CITY OF AUBURN,

PLAINTIFF,

vs.

WILLIAM S. MCCLAURINE,

DEFENDANT.

CASE NO: CC-05-289

FILED  
JUL 10 2006IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERKMOTION TO STRIKE DEFENDANT'S MOTION FOR NEW TRIAL

COMES NOW The City of Auburn, by and through counsel, and moves this Honorable Court to Strike Defendant's Motion for New Trial. As grounds for said motion, City of Auburn states as follows:

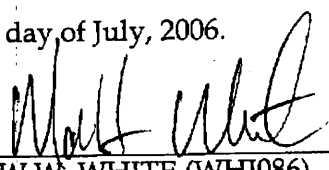
1. The Defendant was convicted of Obstructing Government Operations on May 1, 2006.
2. Defendant was sentenced by this Court on May 25, 2006.
3. Pursuant to Rule 24.1, A.R.Cr.P., the Defendant had 30 days after his sentence in which to file a post-trial motion, including a motion for new trial.
4. Defendant's 30 day deadline to file his post-trial motion fell on June 24, 2006. However, June 24 fell on a Sunday; thus, the Defendant's deadline was extended to Monday, June 26, 2006 by operation of law.
5. However, Defendant did not file his post-trial motion until Tuesday, June 27, 2006.
6. As stated in *Moore v. State*, 814 So. 2d 308 (Ala. Crim. App. 2001), [i]n the absence of a motion for new trial or a request to modify a sentence, filed within 30 days after sentencing, the trial court loses all jurisdiction to

modify a sentence at the end of the 30<sup>th</sup> day.

7. Thus, Defendant's Motion for new Trial is not timely filed and is due to be stricken.

WHEREFORE, The City of Auburn moves this Honorable Court to strike Defendant's Motion for New Trial.

Respectfully submitted this the 7 day of July, 2006.

  
MATTHEW W. WHITE (WHI086)  
CITY PROSECUTOR  
CITY OF AUBURN

OF COUNSEL:

ADAMS, UMBACH,  
DAVIDSON & WHITE, LLP  
P.O. BOX 2069  
OPELIKA, AL 36803-2069  
334-745-6466

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the above and foregoing upon:

William McLaurine  
222 Tichenor Avenue #4  
Auburn, AL 36830

Done this the 7 day of July, 2006.

  
OF COUNSEL

IN THE CIRCUIT COURT OF LEE COUNTY, ALABAMA

CITY OF AUBURN,

PLAINTIFF,

vs.

WILLIAM S. MCLAUREN

DEFENDANT.

FILED  
JUL 10 2006

CASE NO: CC-05-289

IN OFFICE  
OF JENNIFER T. HURST  
CIRCUIT CLERK

**SUPPLEMENT TO CITY'S PRIOR MOTION TO STRIKE DEFENDANT'S  
"AFFIDAVIT FOR INCLUSION IN THE RECORD ON APPEAL"**

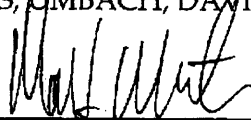
COMES NOW, the City of Auburn, by and through counsel, and as a supplement to its prior Motion to Strike Defendant's Affidavit for Inclusion in the Record on Appeal states as follows:

1. Defendant filed his Notice of Appeal on May 8, 2006.
2. Defendant has not timely filed a motion for a new trial or any other post trial motion.
3. Thus, this Court has lost jurisdiction over this matter.

WHEREFORE, The City of Auburn moves that this Court strike Defendant's "Affidavit for Inclusion in Record on Appeal."

Respectfully submitted this the 7 day of <sup>July</sup>~~June~~, 2006.

ADAMS, UMBACH, DAVIDSON & WHITE, LLP



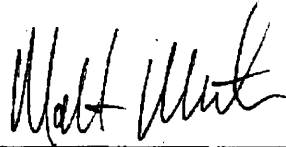
MATTHEW W. WHITE (WHI086)  
City Prosecutor  
P.O. Box 2069  
Opelika, AL 36803-2069  
(334)745-6466

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the above and foregoing upon:

William McLaurine  
222 Tichenor Avenue #4  
Auburn, AL 36830

Done this the 7 day of July, 2006.



\_\_\_\_\_  
OF COUNSEL

IN THE CIRCUIT COURT OF LEE COUNTY, ALABAMA

CITY OF AUBURN,

PLAINTIFF,

VS.

WILLIAM S. MCLAURINE,

DEFENDANT.

CASE NO: CC-05-289

NOTICE OF APPEARANCE

COMES NOW the undersigned attorney and hereby gives notice of his appearance as attorney of record for the appeal of the above styled case to the Alabama Court of Criminal Appeals.

Respectfully submitted this the 11<sup>th</sup> day of July 2006.

*J. Victor Price*  
J. VICTOR PRICE (PRI015)

OF COUNSEL:

Law Offices of J. Victor Price  
17 Sistrunk Street  
Tallahassee, AL 36078  
(334) 283-3388

FILED  
JUL 12 2006

IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing document upon the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed, on this 11<sup>th</sup> day of July 2006.

Matthew W. White, Esq.  
PO Box 2069  
Opelika, AL 36803-2069

*J. Victor Price*  
OF COUNSEL

IN THE CIRCUIT COURT OF LEE COUNTY, ALABAMA

CITY OF AUBURN,

Plaintiff,

vs.

WILLIAM S. MCLAURINE,

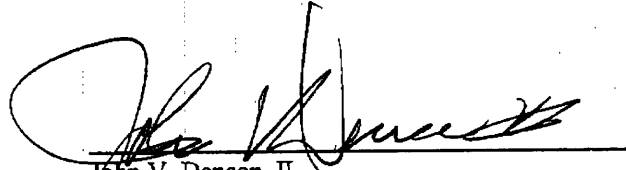
Defendant.

CASE NUMBER: CC-05-289

ORDER

Various post-trial Motions have been filed in this case. The same are set for a Hearing before the Court on August 17, 2006 immediately following the Docket Call in courtroom number four of the Lee County Justice Center.

DONE this the 14<sup>th</sup> day of July, 2006.



John V. Denson, II  
Circuit Judge

cc: Matthew W. White  
Mr. William McLaurine  
222 Tichenor Avenue, #4  
Auburn, Alabama 36830

FILED  
JUL 14 2006

IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK



IN THE CIRCUIT COURT

FOR THE COUNTY OF LEE

STATE OF ALABAMA

THIRTY-SEVENTH JUDICIAL CIRCUIT

CRIMINAL

CITY OF AUBURN,

PLAINTIFF,

VS.

CASE NO.: CC- 05-289

WILLIAM MCLAURINE,

DEFENDANT.

\_\_\_\_\_  
PROCEEDINGS

BEFORE:

John Denson, Circuit Court Judge,  
Lee County Justice Center, Opelika,  
Alabama.

APPEARANCES:

For the Plaintiff:  
Matt White, Esq.  
Opelika, Alabama

For the Defendant, Pro se:

## PROCEEDINGS HAD IN OPEN COURT

(Parties present and the following proceedings were had.)

THE COURT: All right. This is the case of the City of Auburn versus William S. McLaurine. And present are -- the attorneys for Auburn is Rick Davidson and Mr. Matt White. And present is the Defendant, William McLaurine, representing himself.

This is a case of -- where the Defendant has filed motions relating to various matters on this appeal from the City of Auburn conviction that he had earlier. And, as I understand it, you want to present your discovery motion, and the City of Auburn, as I understand it, is willing to concede that you are entitled to that. Do you want to -- do you see any reason to go into it?

MR. MCLAURINE: Yes, sir. There are three issues involved here. I assume this would just be a general motion for discovery. I didn't realize we were going to need to argue over the specifics of it. But there are three things that I would like to make sure that we understand are included in this.

1 One is the -- the court reporting records,  
2 which I think they conceded. The second one  
3 is --

4 THE COURT: The court reporting records?  
5 What is that?

6 MR. WHITE: Judge, the City of Auburn had  
7 a court reporter at the City Court Trial of the  
8 matter.

9 THE COURT: Okay.

10 MR. WHITE: I don't know if he is  
11 entitled to that or not. I think unless he  
12 is considered indigent, he would not be  
13 entitled to that. If he wants to pay for --  
14 pay the court reporter for a copy of the  
15 transcript, he is certainly entitled to do  
16 that, but to require us to produce that if  
17 he has not been declared indigent, I don't  
18 believe he is entitled to that.

19 THE COURT: All right. Are you willing  
20 to pay for the transcript of the court  
21 reporter?

22 MR. MCLAURINE: At this time, yes, sir.

23 THE COURT: Well, at this time, if you are  
24 doing it, it's going to be from --

25 MR. MCLAURINE: What's the fee? I don't

1 know.

2 THE COURT: Okay. All right. So in  
3 regard to the transcript of the trial in the  
4 lower court, that will be produced and paid  
5 for by the Defendant.

6 MR. MCLAURINE: As I -- do we know what  
7 the fee is? That's the only thing.

8 MR. WHITE: I don't know right off hand.  
9 The only way we know is when we get a bill  
10 from the court reporter. Generally you have to  
11 pay for that in advance. So --

12 MR. MCLAURINE: Okay. Well, as long as  
13 that's the case, then I am -- then let's not  
14 worry about that right now. As long as I have  
15 the opportunity to acquire it.

16 THE COURT: Well, this -- this is the day  
17 we are going to decide it. Not -- we are going  
18 to worry about it today.

19 MR. MCLAURINE: All right.

20 THE COURT: So I am going to allow that to  
21 be produced and you will pay for it in advance  
22 before it's produced to you, and then you will  
23 be entitled to it.

24 MR. MCLAURINE: Okay.

25 THE COURT: All right. Will you see that

1 that court reporter is notified?

2 MR. WHITE: Yes, sir.

3 THE COURT: And then get a bill to the  
4 Defendant. And that will be produced.

5 All right. What's the next  
6 item?

7 MR. MCLAURINE: The second issue is that  
8 in a previous discovery in a previous trial,  
9 I was presented a set of audio from the City  
10 and --

11 THE COURT: A set of audio recordings?

12 MR. MCLAURINE: Recordings concerning the  
13 issue. At the trial, the audio that was  
14 played contained some files not given to me  
15 in discovery, and I wanted to make sure that  
16 those were included in this particular  
17 discovery. In particular --

18 THE COURT: Are you talking about the  
19 audio of the trial mentioned certain things  
20 that you were not given?

21 MR. MCLAURINE: The audio recording  
22 between the police officer in the field that  
23 they recorded of the actual arrest.

24 THE COURT: Oh, okay.

25 MR. MCLAURINE: The commentary after

1 that. What was not presented in discovery  
2 was a communication between the dispatcher  
3 and the arresting police officer after the  
4 arrest had been made where the police officer  
5 was confirming details of the case. In that  
6 particular instance, the dispatcher indicated  
7 that he did not believe the person who made  
8 the complaining call that the police officer  
9 was responding to gave a truthful name. And as  
10 far as that goes to probable cause or  
11 reasonable suspicion, I believe that's  
12 exculpatory. I am entitled to it. I would  
13 like to make sure that's included in what is  
14 provided this time.

15 THE COURT: This is a telephone call  
16 between the complaining witness and the  
17 dispatcher?

18 MR. MCLAURINE: No, sir. This is a  
19 telephone call. That -- that was already  
20 provided.

21 THE COURT: Okay.

22 MR. MCLAURINE: This is a -- this is a  
23 -- either a telephone call or a radio  
24 transmission between the arresting officer and  
25 the dispatcher.

1 THE COURT: Okay. What about that?

2 MR. DAVIDSON: Your Honor, we will give  
3 him the disk that we have in our possession.  
4 That is not a problem. We will make a copy  
5 again and provide that.

6 MR. MCLAURINE: And --

7 THE COURT: All right. Okay.

8 MR. MCLAURINE: -- and the third issue in  
9 discovery that I would like to make sure it  
10 was brought up: In the previous trial, there  
11 was a mention of some criminal activity in  
12 the vicinity of the location in which I was  
13 stopped, and I believe there was some instance  
14 that that was going to be used to justify the  
15 stop. I have received no information of the  
16 particulars involving me with that criminal  
17 activity, and if the State wants to present  
18 that, I would like to make sure that they give  
19 me those particulars.

20 THE COURT: This is -- this is alleged  
21 criminal activity that was taking place before  
22 the incident involving you?

23 MR. MCLAURINE: Yes, sir.

24 MR. DAVIDSON: Judge, all that was the  
25 basis of some of our officers' state of mind

1 at the time the Defendant was stopped. This  
2 arrest occurred -- incident occurred at  
3 Thanksgiving break over near campus at the  
4 time when the town was vacated and early  
5 morning hours, et cetera. There has been  
6 some other criminal activity in the  
7 neighborhood that week. I believe that is  
8 what he is referring to. I don't know how we  
9 would produced that criminal activity, but --

10 MR. WHITE: I don't know that that's --  
11 it's certainly not exculpatory evidence.  
12 The call that was received from the complaining  
13 -- the telephone call made to the Auburn  
14 Police Department about 12:45 in the morning  
15 saying there is a suspicious looking white  
16 male looking in windows over here on West  
17 Glenn, and Officer Bean responded to the scene  
18 and encountered the Defendant that matched --  
19 his clothing matched the description given by  
20 the person calling in, and that's why they  
21 stopped this man. Now, to get into all --

22 THE COURT: Well, has he -- he has a  
23 copy of that -- that telephone call?

24 MR. WHITE: He has a copy. That was  
25 produced in City Court.



1 THE COURT: And that's all that you know  
2 about is -- so far as the prior criminal  
3 activity is what this alleged witness said?

4 MR. DAVIDSON: There are some other  
5 officers who testified that they were aware  
6 of other incidences that went on, but they  
7 weren't necessarily the investigating officer  
8 of those incidences. It's just stuff that  
9 comes to them in daily reports and what's  
10 going on, such as that. So I don't know how --

11 THE COURT: Is that something you can  
12 produce to him; those daily reports?

13 MR. DAVIDSON: Well, I don't know what  
14 -- we -- I have never had it. I don't know  
15 what it is. I am not sure that there is a  
16 report. Your Honor, I just think it may be  
17 talk in the patrol room.

18 MR. WHITE: That's right.

19 MR. DAVIDSON: We have never -- I have  
20 never been given anything that says a report --  
21 a written report was taken of a break in of a  
22 window on Glenn at a certain date and time. If  
23 that exists, we will produce it.

24 THE COURT: All right. Why don't you make  
25 search to see if it exists, and if it does

1 exist, if you have any objection to producing  
2 it, you can --

3 MR. DAVIDSON: Yes, sir.

4 THE COURT: -- bring that to the Court's  
5 attention. Otherwise, that will be produced to  
6 the Defendant. That's the audio or written  
7 reports of prior criminal activity.

8 MR. WHITE: Well, I guess we need to  
9 limit that in time somehow. I mean, for how  
10 long before -- before this incident are we  
11 talking? One month or --

12 MR. MCLAURINE: Anything you choose to  
13 present as justification for the stop in this  
14 case is what I am asking for. So if you don't  
15 choose to present anything, then --

16 MR. DAVIDSON: Your Honor, we will --  
17 our justification for the stop is a call,  
18 period. So -- and I don't think I have to  
19 tell him why we made a stop. That will all  
20 come out from the officer.

21 THE COURT: All right. Well, why don't  
22 we limit this in time to a week before, and  
23 let's see what you get.

24 MR. DAVIDSON: And, Judge, just so we  
25 are clear about this, these officers -- every

1 break -- every holiday break in Auburn is a --  
2 is a time when crime occurs, and it escalates.  
3 Christmas break. Thanksgiving break. When  
4 the students are gone, that's when these  
5 things happen. So I can't produce to him an  
6 officer's eight year or ten year or twelve  
7 year history of dealing with these problems  
8 during break, but we all know they happen. And  
9 it's mental process. So I don't want the Court  
10 to be --

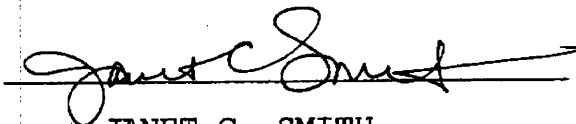
11 THE COURT: Well, this is limited to a  
12 specific area.  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

REPORTER'S CERTIFICATE

I do hereby certify that the above and foregoing transcript of proceedings in the matter aforementioned was taken down in machine shorthand, and that the questions and answers thereto reduced to writing under my personal supervision, and that the foregoing represents a true and correct transcript of the proceedings.

I further certify that I am neither of counsel nor related to the parties to the action, nor am I in any wise interested in the result of said cause.

DATED this the 19th day of July, 2006.



JANET C. SMITH

OFFICIAL COURT REPORTER

1 IN THE CIRCUIT COURT OF  
2 LEE COUNTY, ALABAMA  
3 37th JUDICIAL CIRCUIT  
4  
5

6 CITY OF AUBURN,

7 Plaintiff,

8 vs.

CIVIL ACTION AT LAW  
CASE NO. 05-289

9 WILLIAM S. MCLAURINE,

10 Defendant.  
11  
12  
13  
14

15 \* \* \* \* \*

16 Before the Honorable John V. Denson, II,  
17 on May 1, 2006, commencing at approximately  
18 9:00 a.m.  
19

20 \* \* \* \* \*

21 APPEARANCES

22 FOR THE PLAINTIFF:

23 MATTHEW WHITE  
24 Opelika, Alabama

25 FOR THE DEFENDANT:

WILLIAM S. MCLAURINE, Pro Se

1 PROCEEDINGS HAD IN OPEN COURT

2 THE COURT: At this time, the Court  
3 calls for trial the case of the  
4 City of Auburn versus William S.  
5 McLaurine. What says the City?

6 MR. WHITE: City is ready, Your Honor.

7 THE COURT: What says the defendant?

8 MR. MCLAURINE: May I get a list of the  
9 jurors, Your Honor? That was too  
10 fast for me to keep up with, Your  
11 Honor.

12 THE COURT: No, sir. You have to --  
13 You have a list there, don't you?

14 MR. MCLAURINE: I have the complete  
15 list here, sir, not the list of  
16 the people who are present.

17 THE COURT: Well, she can get that to  
18 you in a little bit.

19 CLERK: I can get you the list, but  
20 you'll have a more updated list  
21 later on.

22 THE COURT: All right. The remaining  
23 cases on the docket now can be  
24 released until tomorrow morning at  
25 9 o'clock, the two remaining

1 cases. All right. At this time,  
2 I will read the complaint. Did  
3 you announce ready, Mr. McLaurine?

4 MR. MCLAURINE: Ready, sir.

5 THE COURT: All right. The complaint  
6 in this case charges that comes  
7 now the City of Auburn, Alabama, a  
8 municipal corporation of the State  
9 of Alabama, by its undersigned  
10 attorney, complains that the said  
11 defendant, William S. McLaurine,  
12 within twelve months before the  
13 bringing of the prosecution of  
14 this case, within the city limits  
15 of the City of Auburn or the  
16 police jurisdiction thereof, by  
17 means of intimidation, physical  
18 force, or interference, or by any  
19 other independently unlawful act,  
20 did intentionally obstruct,  
21 impair, or hinder the  
22 administration of law or other  
23 governmental function or did  
24 intentionally prevent a public  
25 servant from performing a

1 governmental function in violation  
2 of Section 13A-10-2 of the Code of  
3 Alabama as amended and its adopted  
4 ordinance number 1130 as adopted  
5 by the City Council of Auburn.  
6 Said ordinance is codified in  
7 Section 13-1 of the Code of  
8 Alabama -- Code of Auburn,  
9 Alabama.

10 In addition, this statute is  
11 involved. Section 15-5-30, a  
12 sheriff or other officer acting as  
13 sheriff, sheriff's deputy, or any  
14 constable acting within their  
15 respective counties, any marshal,  
16 deputy marshal, or policeman of  
17 any incorporated city or town  
18 within the limits of the county,  
19 or any highway patrolman or state  
20 trooper, may stop any person a  
21 broad in a public place whom he  
22 reasonably suspects is committing,  
23 has committed, or is about to  
24 commit a felony or other public  
25 offense and may demand his name,



1 address, and explanation of his  
2 actions. Now, that complaint and  
3 that statement of code section are  
4 not evidence in the case. At this  
5 time, I would call on the City of  
6 Auburn to introduce who will be at  
7 the table and -- Mr. White?

8 MR. WHITE: Good morning. My name is  
9 Matt White. I'm one of the city  
10 prosecutors for the City of  
11 Auburn, and I'll be prosecuting  
12 this case on behalf of the City of  
13 Auburn. With me at counsel table  
14 is Officer Lavarro Bean. If you  
15 will just raise your hand.

16 Lt. Matthews. And Lt. Howell.

17 THE COURT: All right. Thank you,  
18 sir. Mr. McLaurine?

19 MR. MCLAURINE: My name is William  
20 McLaurine. I'm the defendant  
21 today and I will be defending  
22 myself and be the only witness in  
23 the case.

24 THE COURT: All right. Thank you. All  
25 right. At this time, I need for

1 all of you to raise your right  
2 hand and be sworn again. Do you  
3 and each of you solemnly swear or  
4 affirm that you will well and  
5 truly answer all questions  
6 propounded to you, touching on  
7 your qualifications as a juror and  
8 that you will well and truly try  
9 all issues submitted to you and  
10 true verdicts render, according to  
11 the law and evidence, so help you  
12 God? Say I do.

13 PROSPECTIVE JURORS: I do.

14 THE COURT: Put your hands down. These  
15 are the following qualification  
16 questions that I will ask you, and  
17 you need to respond. Or if you  
18 prefer not to respond in front of  
19 the other jurors, I will give you  
20 a chance to come back afterwards  
21 when the other jurors are out and  
22 you can explain your answer to  
23 these questions.

24 When I conclude my questions,  
25 the lawyers will then ask you

1 questions also. And these  
2 questions are not designed, either  
3 by the Court or the lawyers, to  
4 cause you any embarrassment or any  
5 problem. They are designed to get  
6 information useful to the  
7 attorneys and the parties in  
8 regard to trying the case. So if  
9 there's some question you need to  
10 respond to privately outside the  
11 presence of the other jurors, you  
12 will have an opportunity at the  
13 end to go out, come back in, and  
14 tell us the answer to those. So  
15 at this time, please listen to the  
16 following questions by the Court.

17 Have any of you been indicted  
18 within the last 12 months for the  
19 offenses I have read to you in  
20 this case?

21 (No response.)

22 Do any of you have any  
23 interest either in the conviction  
24 or the acquittal of this  
25 defendant?

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(No response.)

Have you made any promises or  
given any assurances you would  
either convict or acquit this  
defendant?

(No response.)

Do you know anything about  
this case that would influence  
your verdict in any way?

(No response.)

Do any of you have a fixed  
opinion as to the guilt or  
innocence of this defendant?

(No response.)

Are any of you a surety on the  
defendant's bond?

(No response.)

Are any of you a witness in  
this case?

(No response.)

Has anyone talked to you about  
this case?

(No response.)

Do you have a fixed opinion  
against jail or penitentiary

1 punishment?

2 (No response.)

3 Do you think a conviction  
4 should not be had on  
5 circumstantial evidence?

6 (No response.)

7 Are any of you related by  
8 blood or marriage or know the  
9 defendant?

10 (No response.)

11 Do any of you have any  
12 religious or moral reservations  
13 about sitting in judgment of  
14 another?

15 (No response.)

16 Are any of you related by  
17 blood or marriage to Mr. Matt  
18 White, the city attorney?

19 (No response.)

20 Are any of you related by  
21 blood or marriage to the  
22 defendant?

23 (No response.)

24 And if there's any reason any  
25 of you feel like you cannot serve

1 on this case, I'll give you an  
2 opportunity to come back at the  
3 end and tell us what those are.

4 At this time, Mr. White, if  
5 you would, ask your voir dire  
6 questions.

7 MR. WHITE: Yes, sir. If it please the  
8 Court, good morning again. I have  
9 just very few questions for you  
10 this morning. The judge asked you  
11 just now do you know  
12 Mr. McLaurine, and I'm going to  
13 ask you that same question just  
14 kind in a more detailed one. I  
15 believe Mr. McLaurine was a  
16 student at Auburn University and  
17 has been to engineering school  
18 over there. Do any of you here  
19 know him when you see him or  
20 recognize him from school or  
21 recognize him from class or  
22 anything of that nature? Anybody  
23 recognize him or think you may  
24 know him? Yes, sir?

25 PROSPECTIVE JUROR: I may have seen him

1                   within and around the university  
2                   in classes and stuff like that.

3           MR. WHITE: You've just seen him  
4                   around?

5           PROSPECTIVE JUROR: Yes, the  
6                   university.

7           MR. WHITE: What's your name, sir?

8           PROSPECTIVE JUROR: Tom Denney.

9           MR. WHITE: Tom Denny. Thank you,  
10                   sir. Any other responses similar  
11                   to Mr. Denney's where you think  
12                   you know him when you see him?  
13                   Yes, sir?

14           PROSPECTIVE JUROR: Engineering  
15                   professor. I believe I've seen  
16                   Mr. McLaurine running around  
17                   campus.

18           MR. WHITE: You think you've seen him?

19           PROSPECTIVE JUROR: Yes.

20           MR. WHITE: And you are an engineering  
21                   professor you say?

22           PROSPECTIVE JUROR: Yes.

23           MR. WHITE: And what's your name?

24           PROSPECTIVE JUROR: Roy Knight.

25           MR. WHITE: All right. Do you recall

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ever having him in class or  
teaching him or anything of that  
nature?

PROSPECTIVE JUROR: I don't recall  
that.

MR. WHITE: Okay. Thank you. Next  
question. This is -- This case  
involves a stop made by the Auburn  
Police Department. My question to  
you is, has anybody here on this  
jury panel ever been stopped by an  
Auburn police officer and, for  
whatever reason, felt that maybe  
you weren't treated fairly during  
that stop? And it's okay to have  
that opinion. I'm not going to  
ask you any details about it. And  
if you would like to come up later  
when the judge asks to you come up  
later, you can do that. But my  
question is, have any of you been  
pulled over by a police officer  
and for whatever reason just felt  
like you were treated unfairly.  
And like I say, you may come up



1 afterwards to answer that  
2 question.

3 And the follow-up to that  
4 question would be not only Auburn  
5 police officers but any police  
6 officer? If you felt like for any  
7 reason you have been pulled over  
8 by a police officer either here or  
9 anywhere else and felt that you  
10 were treated unfairly, I would  
11 like to know about that. And if  
12 you would like to come up later to  
13 talk about that, that's fine.

14 (No response.)

15 Next question is, I served as  
16 one of the city prosecutors for  
17 the City of Auburn, and I'm also a  
18 a lawyer in the law firm of Adams,  
19 Umbach, Davidson & White. And my  
20 question to you is, have I or has  
21 any member of my law firm ever  
22 been on the opposite side of a  
23 case from you? Whether it be a  
24 criminal case or a civil case, a  
25 domestic matter, anything of that

1 nature? Phil Adams, Arnold  
2 Umbach, Rick Davidson, Michael  
3 Short, myself. Have I or any of  
4 my law partners ever been on the  
5 opposite side of a case from you  
6 or a member of your family? Any  
7 response to that?

8 (No response.)

9 Next question. The judge has  
10 read some law to you. And at the  
11 close of the case he's going to  
12 read that same law to you again.  
13 And I have one very simple  
14 question for you, is if you are  
15 selected to sit on this jury, do  
16 you feel like you can follow the  
17 law? In other words, you're going  
18 to take an oath to follow the  
19 law. Is there anybody here that  
20 doesn't feel like they can follow  
21 the law when asked to do so? No  
22 response to that?

23 (No response.)

24 Last question, and this may be  
25 a sensitive subject, and I would

1 invite you to come up later when  
2 the judge invites you to. The  
3 question is, have you or any  
4 member of your family been  
5 convicted of a crime? And when I  
6 say a crime, I'm talking about  
7 anything from a DUI on up. Okay.  
8 I'm not talking about speeding or  
9 running a red light or anything  
10 like that. I'm talking about a  
11 DUI or worse. So if you are  
12 convicted of a crime or if your  
13 close family -- I'm not talking  
14 about cousins or aunts and uncles,  
15 I'm talking about your immediate  
16 family -- been convicted of a  
17 crime, we would like to know.  
18 And, again, you can come up later  
19 to answer that question. That's  
20 all the questions I have.

21 THE COURT: Mr. McLaurine?

22 MR. MCLAURINE: Morning. My questions  
23 are fairly similar. Do you know  
24 or recognize any person who is a  
25 member of the defense or a

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witness? Yes, sir?

PROSPECTIVE JUROR: I know Mr. Howell.

MR. MCLAURINE: And your name, sir?

PROSPECTIVE JUROR: John Vance. It's  
just business dealings. We have  
never broken bread together or  
taken showers.

MR. MCLAURINE: I hope not. You know  
Mr. Howell, sir?

PROSPECTIVE JUROR: Yes, just through  
business.

MR. MCLAURINE: Yes, ma'am?

PROSPECTIVE JUROR: I know Mr. White.

MR. MCLAURINE: How do you know him?

PROSPECTIVE JUROR: Professional.

MR. MCLAURINE: And your name?

PROSPECTIVE JUROR: Melissa Morris.

MR. MCLAURINE: Anyone else? I'm  
defending myself today. Do you  
believe the fact that I am  
proceeding without an attorney  
might prevent you from accepting  
legal arguments or facts of the  
case as presented by the defense?  
Again, you can come up and tell us

1 in private.

2 (No response.)

3 Are you or any of your close  
4 relatives involved in the law  
5 enforcement community, including  
6 professional or social  
7 organizations such as the bar or  
8 police associations?

9 (No response.)

10 Do you believe that racial  
11 discrimination or intimidation  
12 based on race is acceptable at any  
13 time during police interrogation?

14 (No response.)

15 Do you have any difficulty  
16 understanding that the burden of  
17 proof is on the prosecution and  
18 that each and every requirement of  
19 the law must be proven beyond a  
20 reasonable doubt?

21 (No response.)

22 Do you understand that simply  
23 being arrested is not enough to be  
24 convicted of a crime and that  
25 you -- it's your responsibility as

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jurors to act as the conscience of  
the community?

(No response.)

Mr. White asked you if you had  
ever been on the same side of a  
case or the opposite side of the  
case. Have you ever been on the  
same side of the case with any of  
the people he mentioned?

(No response.)

That's all I have, Your  
Honor.

THE COURT: All right. Those of you  
who wish to respond need to go  
with the bailiff who will be right  
over here by this door. Y'all go  
into the jury room there. The  
remainder of you go into the jury  
assembly room. Is there anyone  
you specifically -- any of the  
attorneys want to remain for  
specific questions?

MR. WHITE: Yes, sir. Dr. Knight.

THE COURT: Dr. Knight, if you would  
remain. Anyone else? All right.

1 Those of you who will respond  
2 along with Dr. Knight, if you  
3 would follow the bailiff here, and  
4 the rest of you go back to the  
5 jury assembly room, and we will be  
6 in touch.

7 All right. Bring in the first  
8 one. If you would, come up and  
9 have a seat up here, please, sir.  
10 You need to speak into that  
11 microphone, the tallest one  
12 there. And your name, please,  
13 sir?

14 PROSPECTIVE JUROR: Danny Beretta.

15 THE COURT: Danny Beretta?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: And what is it you need to  
18 respond to?

19 PROSPECTIVE JUROR: Well, my father, he  
20 had a DUI when I was a teenager.

21 THE COURT: All right. All right.  
22 Anything else?

23 PROSPECTIVE JUROR: Yes. My sister,  
24 she's a dispatcher with the City  
25 of Opelika.

1 THE COURT: What's her name?  
2 PROSPECTIVE JUROR: Penny Beretta.  
3 THE COURT: Kenny?  
4 PROSPECTIVE JUROR: Penny.  
5 THE COURT: Penny Beretta? All right,  
6 sir?  
7 PROSPECTIVE JUROR: That's it.  
8 THE COURT: All right, sir. Thank  
9 you. Any questions from the  
10 attorneys?  
11 MR. WHITE: No, sir.  
12 THE COURT: Mr. McLaurine?  
13 MR. MCLAURINE: Do you feel that your  
14 connection -- your wife, the  
15 dispatcher with the city of  
16 Opelika, do you feel that that  
17 would interfere with your ability  
18 to understand that government  
19 officials are limited in what they  
20 can do and that you might feel an  
21 association with police or any  
22 other government official and  
23 would try and defend them or  
24 excuse illegal action for them?  
25 PROSPECTIVE JUROR: No.



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MR. MCLAURINE: That's all I have.

THE COURTm: Anything further? Thank  
you very much. If you would just  
go back to the jury assembly  
room.

Come up and have a seat up  
here, please, sir. Give us your  
name.

PROSPECTIVE JUROR: Mauldin, William  
David.

THE COURT: William Mauldin?

PROSPECTIVE JUROR: Mauldin,  
M-A-U-L-D-I-N.

THE COURT: All right, sir. What is it  
you need to respond to?

PROSPECTIVE JUROR: Well, I think the  
question he had about a DUI,  
wasn't it?

MR. WHITE: Convicted of any crime DUI  
or greater.

THE COURT: Did you say anybody in your  
family or --

MR. WHITE: Just immediate family, yes,  
sir. Meaning wife, children.

PROSPECTIVE JUROR: Well, what I'm

1 saying is I had one 25 years ago.  
2 But I never -- as far as I know, I  
3 don't know whether I was ever  
4 convicted. I've forgotten  
5 everything about the thing. I  
6 wasn't fined or anything, but I  
7 was -- you know.

8 MR. WHITE: Okay.

9 THE COURT: All right, sir. Just a  
10 minute. Do you have any questions  
11 for him, Mr. McLaurine?

12 MR. MCLAURINE: No, sir. No, sir.  
13 Thank you very much. Just go back  
14 to the jury assembly room.

15 PROSPECTIVE JUROR: Okay.

16 THE COURT: Come around here, please,  
17 ma'am, up here, and sit in that  
18 second chair and talk into that  
19 microphone. The second chair is  
20 closest to the microphone that's  
21 working.

22 PROSPECTIVE JUROR: Okay.

23 THE COURT: Give us your name, please,  
24 sir

25 PROSPECTIVE JUROR: Verlyn Burkhalter.

1 THE COURT: Burkhalter? What is it you  
2 need to comment on?

3 PROSPECTIVE JUROR: Okay. Two things.  
4 One, my brother was convicted of  
5 child molestation in the state of  
6 Texas.

7 THE COURT: How long ago?

8 PROSPECTIVE JUROR: It's been a long  
9 time. He was in jail out there  
10 for seven years.

11 THE COURT: So he went to prison seven  
12 years?

13 PROSPECTIVE JUROR: Uh-huh.

14 THE COURT: All right.

15 PROSPECTIVE JUROR: It's been -- it's  
16 been like probably like 20 years  
17 ago.

18 THE COURT: Twenty years ago, okay.

19 All right. Anything else?

20 PROSPECTIVE JUROR: One more thing.  
21 Mr. Umbach was my divorce attorney  
22 about fifteen years ago. But it  
23 was not a contested divorce. It  
24 was just paperwork.

25 THE COURT: Let me ask you this. Would

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either one of -- is there anything  
else?

PROSPECTIVE JUROR: No. That's all.

THE COURT: Would either one of these  
instances keep you from following  
the evidence and the law that's  
given to you by the Court and  
rendering a fair and impartial  
verdict in this case?

PROSPECTIVE JUROR: No.

THE COURT: Okay. You think you can be  
fair to both sides in the case?

PROSPECTIVE JUROR: Yes. I don't have  
grudges against either one.

THE COURT: Mr. White?

MR. WHITE: No questions, Your Honor.

THE COURT: Mr. McLaurine?

MR. MCLAURINE: I don't have anything.

THE COURT: All right. Thank you very  
much.

PROSPECTIVE JUROR: Thank you.

THE COURT: Go back this way to the  
jury assembly room and we'll call  
you in a few minutes. Come up and  
have a seat, please, sir, right up

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here in this second chair. And  
then speak to that tall microphone  
there. Come over here. Yes,  
sir.

Give us your name first.

PROSPECTIVE JUROR: Herbert Brown.

THE COURT: Mr. Brown?

PROSPECTIVE JUROR: Yes, sir.

THE COURT: All right, sir. What is it  
you need to comment on?

PROSPECTIVE JUROR: One thing, I was  
stopped for DUI in 1969, I believe  
it was. I haven't had a drink  
since 1972. And also I've got  
a -- I don't know how far this  
family member or somebody  
convicted of a crime, but I've got  
a grandson downstairs right now,  
and I believe that he was on  
parole. I believe the charges are  
bad checks and drugs and things  
such as that.

THE COURT: What is his name, if you  
don't mind?

PROSPECTIVE JUROR: Michael Weldon.

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THE COURT: Michael Weldon?

PROSPECTIVE JUROR: Yes, sir.

THE COURT: Anything else?

PROSPECTIVE JUROR: No, sir.

THE COURT: Would either one of these experiences, either your DUI or the fact your grandson is being charged, keep you from being fair and impartial to both sides in this case?

PROSPECTIVE JUROR: No, sir. I don't believe so.

THE COURT: Could you listen to the facts as coming from the witness stand and the evidence and the jury instructions that the court gives you as to the law and follow that, and apply the law to the facts and render a fair and impartial verdict?

PROSPECTIVE JUROR: Yes, sir.

THE COURT: All right, sir. Mr. White?

MR. WHITE: No questions.

THE COURT: Mr. McLaurine?

MR. MCLAURINE: Nothing.

1 THE COURT: Come back to the jury  
2 assembly room back here where you  
3 were originally and we'll be in  
4 touch.

5 Come up and have a seat,  
6 please, ma'am, in that second  
7 chair, and speak directly into  
8 that tall microphone.

9 PROSPECTIVE JUROR: Okay.

10 THE COURT: Give us your name first,  
11 please, ma'am.

12 PROSPECTIVE JUROR: Glenda Moss.

13 THE COURT: Moss?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: All right. What is it you  
16 need to disclose, please, ma'am?

17 PROSPECTIVE JUROR: The question they  
18 asked had anybody been convicted,  
19 I had my son about three years  
20 ago.

21 THE COURT: And what was he convicted  
22 of?

23 PROSPECTIVE JUROR: Theft, breaking and  
24 entering.

25 THE COURT: Was that here in Lee

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County?

PROSPECTIVE JUROR: Yes.

THE COURT: Did he serve some time?

PROSPECTIVE JUROR: Yes.

THE COURT: And how long did he serve?

PROSPECTIVE JUROR: Three months.

THE COURT: All right. Anything else?

PROSPECTIVE JUROR: No.

THE COURT: Do you think that the fact  
about your son, would that keep  
you from being fair and impartial  
to both sides in this case?

PROSPECTIVE JUROR: Yes.

THE COURT: You could be fair and  
impartial to both?

PROSPECTIVE JUROR: Yes.

THE COURT: You could follow the facts  
and the law and apply that and  
render a fair and impartial  
verdict?

PROSPECTIVE JUROR: Yes, uh-huh.

THE COURT: All right. Mr. White?

MR. WHITE: No questions.

THE COURT: Mr. McLaurine?

MR. MCLAURINE: No questions.



1 THE COURT: All right. Thank you very  
2 much. If you would, go back to  
3 the jury assembly room where you  
4 started out originally.

5 Come up and have a seat,  
6 please, ma'am, in this second  
7 chair and speak into that tall  
8 microphone.

9 Okay. Tell us your name  
10 first.

11 PROSPECTIVE JUROR: Johnnie Pearl  
12 Knight.

13 THE COURT: Knight? Ms. Knight, what  
14 is it you wish to disclose?

15 PROSPECTIVE JUROR: Well, you asked if  
16 any relative had been convicted.

17 THE COURT: Okay.

18 PROSPECTIVE JUROR: And my son.

19 THE COURT: All right. What was he  
20 convicted of?

21 PROSPECTIVE JUROR: Oh, gee. Some of  
22 everything. Well, he used to  
23 steal. No drugs, just stealing, I  
24 think, most of the time, something  
25 like that. It been awhile, but

1                   you asked the question so --

2           THE COURT: All right. But he's  
3                   convicted of some felony, crime  
4                   involving moral turpitude,  
5                   stealing?

6           PROSPECTIVE JUROR: Yes.

7           THE COURT: Did he serve time in jail  
8                   or the penitentiary?

9           PROSPECTIVE JUROR: Yes.

10          THE COURT: How long?

11          PROSPECTIVE JUROR: Maybe -- I don't  
12                   exactly know how long he stay, but  
13                   it's been like 15, nearly 20 years  
14                   since he's been in any real  
15                   trouble.

16          THE COURT: This occurred then some 15  
17                   or 20 years ago?

18          PROSPECTIVE JUROR: Yes.

19          THE COURT: Anything else?

20          PROSPECTIVE JUROR: No. That's it.

21          THE COURT: Would this fact and this  
22                   experience keep you from being a  
23                   fair and impartial juror in the  
24                   case?

25          PROSPECTIVE JUROR: No.

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THE COURT: Would you tend to favor one side or the other because of this?

PROSPECTIVE JUROR: No.

THE COURT: Could you listen to the evidence and to the law the Court gives you and apply that law to the facts and render a verdict that would be fair and impartial to both sides?

PROSPECTIVE JUROR: Yes.

THE COURT: All right. Mr. White?

MR. WHITE: Just one question. What was your son's name?

PROSPECTIVE JUROR: Stephen Staples.

MR. WHITE: Stephen Staples. That's all I have. Thank you.

THE COURT: Mr. McLaurine?

MR. MCLAURINE: Ma'am, am I correct in assuming that your spouse works for the Auburn Water Board?

PROSPECTIVE JUROR: Yes.

MR. MCLAURINE: Would you have any problems with having to deal with accusations of misconduct of city

1 employees? Do you think that  
2 would set up a conflict of  
3 interest for you?

4 PROSPECTIVE JUROR: No. Because it  
5 happens. Sometimes, you know,  
6 things -- conduct is not always --  
7 everybody don't conduct themselves  
8 properly. So if you do -- if  
9 you're wrong, you're just wrong.  
10 I can't, you know, just be on your  
11 side because of who you work for.

12 THE COURT: Anything else?

13 MR. MCLAURINE: That's it.

14 THE COURT: All right. Thank you very  
15 much. Go back to the jury  
16 assembly room out front where you  
17 first came from.

18 PROSPECTIVE JUROR: Okay.

19 THE COURT: Come in, please, ma'am, and  
20 come up here to this second chair  
21 and speak into that tall  
22 microphone. Tell us your name  
23 first, please, ma'am.

24 PROSPECTIVE JUROR: Carolyn Lewis.

25 THE COURT: What's your last name?

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PROSPECTIVE JUROR: Lewis, L-E-W-I-S.

THE COURT: L-E-W-I-S?

PROSPECTIVE JUROR: Yes, ma'am.

THE COURT: What is it you need to  
disclose?

PROSPECTIVE JUROR: I've got two  
younger brothers and they both had  
DUIs. One of them for like --

THE COURT: All right. How long ago  
was that?

PROSPECTIVE JUROR: One less than a  
year ago. I mean almost -- I'm  
not sure.

THE COURT: Okay.

PROSPECTIVE JUROR: And the other  
probably I think within a month of  
each other two -- not this past  
Thanksgiving, but the Thanksgiving  
before.

THE COURT: Were either one of those  
charged by the City of Auburn?

PROSPECTIVE JUROR: Yes.

THE COURT: Both of them the City of  
Auburn?

PROSPECTIVE JUROR: All three of them.

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THE COURT: All three charges were?

PROSPECTIVE JUROR: Yes.

THE COURT: Two by one brother and one  
on the other, all three were  
Auburn?

PROSPECTIVE JUROR: Yes.

THE COURT: All right. Anything else?

PROSPECTIVE JUROR: No.

THE COURT: Would the fact your  
brothers have been charged -- Were  
both of them convicted? Both of  
them convicted?

PROSPECTIVE JUROR: Yes.

THE COURT: Would those facts keep you  
from being fair and impartial in  
the case?

PROSPECTIVE JUROR: It might. Yes,  
sir.

THE COURT: You don't think you could  
listen to the facts and the law  
and follow that and render a fair  
and impartial verdict?

PROSPECTIVE JUROR: I can listen to the  
facts, yes, sir.

THE COURT: Do you think you would tend

1 to favor one side or the other  
2 because of those experiences of  
3 your brothers?

4 PROSPECTIVE JUROR: No.

5 THE COURT: Okay. You think you could  
6 be a fair and impartial juror?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: Mr. White?

9 MR. WHITE: Ms. Lewis, did you -- do  
10 you or your family members have  
11 any, I guess, animosity towards  
12 the City of Auburn or its  
13 officers --

14 PROSPECTIVE JUROR: No, sir.

15 MR. WHITE: -- about the DUIs? Did  
16 they think that it was -- Do your  
17 brothers believe that they were  
18 handled fairly by the City of  
19 Auburn?

20 PROSPECTIVE JUROR: Yes.

21 MR. WHITE: Okay. Do you know whether  
22 your brothers contested the DUIs?  
23 In other words, did they hire  
24 lawyers and go to court over it,  
25 or did they just go to court and

1 plead guilty?

2 PROSPECTIVE JUROR: I believe the one  
3 that had two, the second time he  
4 did -- my dad did get a lawyer for  
5 him. But I don't know if that was  
6 just to help to lessen his  
7 punishment or -- I'm not sure.

8 MR. WHITE: Okay. But the only reason  
9 I'm asking, when the judge first  
10 asked you something about could  
11 you be fair and impartial or --  
12 you said it might. Do you know  
13 what you were talking about there?

14 PROSPECTIVE JUROR: Yes. Well, then he  
15 asked if I could listen to the law  
16 and do it that way.

17 MR. WHITE: Right.

18 PROSPECTIVE JUROR: I can do --

19 MR. WHITE: What were you getting ready  
20 to say though?

21 PROSPECTIVE JUROR: Just that they both  
22 had DUIs and -- that was it.

23 MR. WHITE: You or your family don't  
24 bear any grudge toward the city  
25 over your brothers being



1                   prosecuted for DUI?  
2           PROSPECTIVE JUROR: No.  
3           MR. WHITE: Okay.  
4           THE COURT: Anything further?  
5           MR. WHITE: Not from me.  
6           THE COURT: Mr. McLaurine?  
7           MR. MCLAURINE: No.  
8           THE COURT: If you would go, back out  
9                   this door to the jury assembly  
10                  room.  
11                  Come up and have a seat up  
12                  here, please, sir, in that second  
13                  chair and the speak into the tall  
14                  microphone. Give us your name  
15                  first.  
16           PROSPECTIVE JUROR: It's Tom Denney.  
17           THE COURT: Mr. Denney, what is it you  
18                  need to disclose to us, please,  
19                  sir?  
20           PROSPECTIVE JUROR: The question was  
21                  asked whether you've been  
22                  connected or convicted of a DUI or  
23                  anything higher, and I was  
24                  convicted of a DUI.  
25           THE COURT: How long ago was that?

1 PROSPECTIVE JUROR: When I was 21, so  
2 that's 19 -- I guess it's '83.

3 THE COURT: About 1983?

4 PROSPECTIVE JUROR: Yes, sir.

5 THE COURT: And who was the charging  
6 agency? Was it the City of Auburn  
7 or Opelika or Lee County, or who  
8 was it?

9 PROSPECTIVE JUROR: No. It was in  
10 North Carolina.

11 THE COURT: In North Carolina? All  
12 right. Anything else?

13 PROSPECTIVE JUROR: That's it.

14 THE COURT: Would that fact keep you  
15 from being fair and impartial in  
16 the case?

17 PROSPECTIVE JUROR: I don't know what  
18 the case is.

19 THE COURT: All right. Do you think  
20 that that experience would keep  
21 from you listening to the facts  
22 and the law and applying that law  
23 to the facts and rendering a fair  
24 and impartial verdict?

25 PROSPECTIVE JUROR: I don't think so.

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THE COURT: Do you think you could be  
fair and impartial?

PROSPECTIVE JUROR: Yes.

THE COURT: All right. Mr. White?

MR. WHITE: No questions.

THE COURT: Mr. McLaurine?

MR. MCLAURINE: Mr. Denney, you're a  
professor of engineering at Auburn  
University?

PROSPECTIVE JUROR: (No audible  
response.)

THE COURT: You have to speak up and  
say yes or no.

PROSPECTIVE JUROR: Yes.

MR. MCLAURINE: Do you recognize me in  
any way shape or form?

PROSPECTIVE JUROR: You look -- I may  
have seen you around on campus.  
And I teach some courses that  
have, like Engineering 1100, a lot  
of students, and I may have had  
you in one of those classes.

MR. MCLAURINE: I graduated -- my last  
degree graduation was in 2004.

PROSPECTIVE JUROR: Okay.

1 MR. MCLAURINE: I also work at Arby's  
2 on Magnolia. You may recognize me  
3 from there.

4 PROSPECTIVE JUROR: That could have  
5 been it, too.

6 MR. MCLAURINE: Okay.

7 THE COURT: Anything further?

8 MR. MCLAURINE: Okay.

9 THE COURT: All right, sir. Thank you  
10 very much. If you would, go out  
11 this back door here and go back to  
12 the jury assembly room. We  
13 appreciate it.

14 Come up and have a seat up  
15 here in this second chair and  
16 speak into that tall microphone.  
17 You are Professor Knight?

18 PROSPECTIVE JUROR: Yes, sir, I am.

19 THE COURT: All right. I know you were  
20 asked to come back. Is there  
21 anything that you wish to  
22 disclose?

23 PROSPECTIVE JUROR: Yes, sir. I have  
24 a -- was convicted of a DUI five  
25 years ago.

1 THE COURT: And where was that?  
2 PROSPECTIVE JUROR: In this court.  
3 THE COURT: And who was the charging  
4 agency?  
5 PROSPECTIVE JUROR: Lee County.  
6 THE COURT: Lee County? Anything else?  
7 PROSPECTIVE JUROR: No, sir.  
8 THE COURT: Would that fact keep you  
9 from being fair and impartial to  
10 both sides in this case?  
11 PROSPECTIVE JUROR: No, sir, it would  
12 not.  
13 THE COURT: Can you listen to the  
14 evidence and the law that the  
15 court gives you and apply that and  
16 render a fair and impartial  
17 verdict?  
18 PROSPECTIVE JUROR: Yes. I believe I  
19 can.  
20 THE COURT: All right, sir. Thank  
21 you. Mr. White?  
22 MR. WHITE: Yes, sir. During that DUI  
23 five years ago, do you think -- do  
24 you feel like you were treated  
25 fairly by law enforcement?

1 PROSPECTIVE JUROR: Yes, I was.  
2 MR. WHITE: Did you have any beef with  
3 the way you were treated by them  
4 at all?  
5 PROSPECTIVE JUROR: No, I did not.  
6 MR. WHITE: Did you contest the DUI?  
7 In other words, did you come to  
8 court and fight it and try to get  
9 off, or did you plead guilty?  
10 PROSPECTIVE JUROR: I pled guilty.  
11 MR. WHITE: Was that downstairs?  
12 PROSPECTIVE JUROR: I had -- yes, it  
13 was downstairs. Yes, it was.  
14 MR. WHITE: Was that your first offense  
15 DUI?  
16 PROSPECTIVE JUROR: First and only  
17 offense, yes, sir.  
18 MR. WHITE: That's all I've got.  
19 THE COURT: Mr. McLaurine?  
20 MR. MCLAURINE: Mr. Knight, I believe  
21 you eat at Arby's on a fairly  
22 regular basis?  
23 PROSPECTIVE JUROR: Yes, sir.  
24 MR. MCLAURINE: So you do recognize me?  
25 PROSPECTIVE JUROR: Yes, I do.

1 MR. MCLAURINE: I know you eat with  
2 Dr. Silbing and Dr. Bafanani on a  
3 regular basis?

4 PROSPECTIVE JUROR: Yes, sir.

5 MR. MCLAURINE: And I know you know  
6 Dr. Jones?

7 PROSPECTIVE JUROR: Right.

8 MR. MCLAURINE: I've discussed this  
9 case with each of them in some  
10 regard. Have you had the  
11 opportunity to discuss that with  
12 them?

13 PROSPECTIVE JUROR: Dr. Silbing has  
14 told me some of what you have said  
15 with him, yes.

16 MR. MCLAURINE: Okay. Do you think  
17 that what you've heard will cause  
18 you to have a pre-formed opinion  
19 about what this case means?

20 PROSPECTIVE JUROR: No, I don't.

21 MR. MCLAURINE: Okay. And do you  
22 recognize me from any of your  
23 classes?

24 PROSPECTIVE JUROR: No, I don't.

25 MR. MCLAURINE: I've never had you.

1 PROSPECTIVE JUROR: Okay. I was going  
2 to say, that doesn't mean I didn't  
3 teach you, although I do not  
4 recognize you from any of my  
5 classes.

6 MR. MCLAURINE: Do you recognize -- Has  
7 Dr. Bafanani ever discussed me as  
8 a student, him being the director  
9 of undergraduate students, has he  
10 ever discussed me in any way with  
11 you about my personal character or  
12 qualities or anything like that?

13 PROSPECTIVE JUROR: No, he has not.

14 MR. MCLAURINE: Okay. Nothing further.

15 THE COURT: Anything further,  
16 Mr. White?

17 MR. WHITE: The fact that you've had  
18 some discussions with somebody  
19 about this case, do you think that  
20 would enter into your mind as you  
21 sit and and hear the evidence in  
22 the case?

23 PROSPECTIVE JUROR: I don't think so.

24 MR. WHITE: Well, I mean if evidence  
25 comes in to court here today



1 that's contrary to the impression  
2 that you had in your mind, are you  
3 going to tend to go with the  
4 impression you had in your mind or  
5 with the evidence that you  
6 receive?

7 PROSPECTIVE JUROR: I would go with the  
8 evidence that I see in court.

9 MR. WHITE: You don't have any  
10 predisposed bias to believe that  
11 Mr. McLaurine is not guilty of  
12 these charges?

13 PROSPECTIVE JUROR: No. I don't.

14 MR. WHITE: All right. That's all I  
15 have.

16 MR. MCLAURINE: Just one more  
17 question. Have you and I ever had  
18 a conversation that you can  
19 remember?

20 PROSPECTIVE JUROR: With you?

21 MR. MCLAURINE: Personally?

22 PROSPECTIVE JUROR: Not that I can  
23 remember. We have nodded and said  
24 hello at the Arby's. I think  
25 that's it.

1 MR. MCLAURINE: Thank you, sir.  
2 THE COURT: Anything further?  
3 MR. MCLAURINE: No, sir. All right.  
4 THE COURT: All right, sir. Thank you  
5 very much. If you would just go  
6 back to the jury assembly room.  
7 Attorneys have any comments on any  
8 of these jurors? Any motions?  
9 All right. We will --  
10 MR. MCLAURINE: Actually --  
11 THE COURT: Do you have a list?  
12 THE CLERK: No.  
13 THE COURT: How much time you need? We  
14 need to take a recess?  
15 THE CLERK: No. You can go ahead and  
16 do the prelims.  
17 THE COURT: We're going to draw out 18  
18 names.  
19 THE CLERK: Do we we need an alternate?  
20 THE COURT. Yes, I think we do need an  
21 alternate. We will draw three out  
22 for one alternate, if that's all  
23 right. One, two, three, four,  
24 five, six, seven, eight, nine,  
25 ten, eleven, twelve, thirteen,

1                   fourteen, fifteen, sixteen,  
2                   seventeen, eighteen. All right.  
3                   That's your eighteen. I'm going  
4                   to draw three out for the  
5                   alternates. One, two, three.  
6                   These are the ones that were not  
7                   used.

8                   While, she's doing that list,  
9                   let me ask the parties how much  
10                  time you want for opening  
11                  statement. Mr. White?

12                 MR. WHITE: I think ten minutes will be  
13                  plenty for me.

14                 THE COURT: Mr. McLaurine?

15                 MR. MCLAURINE: Ten, maybe fifteen.

16                 THE COURT: Fifteen?

17                 MR. MCLAURINE: I think I could  
18                  possibly get done in ten, but I  
19                  can't guarantee it.

20                 THE COURT: I'll give you both fifteen  
21                  if you need it.

22                 MR. MCLAURINE: Thank you, sir.

23                 THE COURT: You got all your exhibits  
24                  marked?

25                 MR. WHITE: I don't right offhand, but

1 I'll be doing that here.

2 THE COURT: Do you already have that  
3 statute you mentioned? You want  
4 to put that in the record at this  
5 time --

6 MR. WHITE: Yes, sir.

7 THE COURT: -- the resolution?

8 MR. MCLAURINE: Just want to make sure  
9 I understand. It's just basically  
10 saying that the City's adoption of  
11 that particular piece of law has  
12 the same identical meaning that it  
13 does at the state level; is that  
14 correct?

15 MR. WHITE: That's correct. But not --  
16 it says that we've adopted all the  
17 laws of the State of Alabama, not  
18 just this particular law. The  
19 violation of the laws of the State  
20 of Alabama are a violation of the  
21 laws of the City of Auburn.  
22 That's all it says.

23 MR. MCLAURINE: I just needed to  
24 clarify.

25 THE COURT: Now, that's State's Exhibit

1                   #1; is that right?

2           MR. WHITE: City's Exhibit #1.

3           THE COURT: City Exhibit #1? All  
4                   right. That will be admitted.  
5                   All right. If you will mark your  
6                   others and -- do you have -- any  
7                   exhibits that you are going to  
8                   have offered, you need to mark  
9                   them.

10          MR. MCLAURINE: Okay.

11          THE COURT: They will have to have a  
12                   defendant's tab and you can number  
13                   them. And I assume the court  
14                   reporter has got those tabs.

15          MR. WHITE: Your Honor, do you have any  
16                   idea on a timeline? It looks like  
17                   we're running up on 12:00. We're  
18                   going to pick a jury before  
19                   lunch. Do you want to come  
20                   back -- you want to do openings  
21                   before lunch or --

22          THE COURT: I think not. I think we  
23                   can get through about 12:00 and  
24                   then take about an hour and hour  
25                   and fifteen minutes and come back

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and do opening statements.

MR. MCLAURINE: That should be fine.

Your Honor, do I need to mark  
rebuttal evidence?

THE COURT: No.

MR. MCLAURINE: I need to get a couple  
of those tabs then.

THE COURT: He's got them right over  
here. All right.

MR. WHITE: Judge, you want to take up  
a motion?

THE COURT: Yes, I would like to do  
that.

MR. WHITE: The first motion that I  
have is based upon this issue of  
probable cause or reasonable  
suspicion. And you've already  
entered an order to the effect  
that the officers had probable  
cause or reasonable suspicion to  
approach and question  
Mr. McLaurine. And as you know,  
the issue of probable cause is an  
issue of law for the Court to  
decide. It is not an issue for

1 the jury to decide. And you've  
2 already made that decision. So I  
3 would ask for a motion limine to  
4 prohibit Mr. McLaurine from  
5 arguing that the officers never  
6 had reasonable suspicion or  
7 probable cause to arrest or detain  
8 him or to question him in any way.

9 THE COURT: Mr. McLaurine?

10 MR. MCLAURINE: Two issues with that.

11 First is that I have already tried  
12 to raise the motion and the facts  
13 as you understood them in the  
14 motion you issued do not match the  
15 facts that were presented in the  
16 case and, therefore, the motion  
17 is -- the original ruling is not  
18 based on the total picture of  
19 what's going on.

20 The second issue is that while  
21 I would agree that under most  
22 normal circumstances reasonable  
23 suspicion is a matter of law to be  
24 determined by the judge of what  
25 the standards are, in this case,

1 it is specifically identified in  
2 the statute as being required to  
3 establish whether a police officer  
4 was legitimately acting in his  
5 capacity as a state official. And  
6 since that must be present and it  
7 must be articulated to the  
8 defendant, those -- as part of  
9 establishing that, that the  
10 defendant knew what was going on,  
11 that makes it a matter of fact for  
12 the jury to decide whether or not  
13 it's true or not.

14 THE COURT: All right. I ruled on that  
15 earlier based on what was  
16 presented to me. I'll wait and  
17 see what's offered in this case  
18 and rule on it as it comes in from  
19 the witnesses.

20 MR. WHITE: Also, as you know, Your  
21 Honor, we have made a plea offer  
22 in this case, and Mr. McLaurine is  
23 representing himself. I don't  
24 know if he's aware of the rule,  
25 but any mention of a plea offer is



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not appropriate.

MR. MCLAURINE: Yes, sir. I'm aware of  
the rule and I understand that.

THE COURT: All right. I'll grant that  
motion. Anything further?

MR. WHITE: That's all.

THE COURT: Mr. McLaurine, you have any  
motion in limine to present?

MR. MCLAURINE: Not specifically, Your  
Honor. I just want to make sure  
that the prosecution follows all  
the rules of entering evidence  
properly, that they have to  
establish the predicates before  
they can enter the evidence so  
that the jury won't hear  
information they shouldn't if the  
prosecution isn't capable of  
presenting the proper precedents.

THE COURT: I'll rule on that as we  
come to it.

MR. MCLAURINE: Okay.

THE COURT: We may have time for me to  
give instructions to the jury  
about what their conduct is to be

1 outside the presence once the --  
2 we'll see how long it takes y'all  
3 to pick a jury and then come back  
4 and do opening statements. Let's  
5 take about a five-minute break  
6 until she gets the list.

7 (Brief recess)

8 MR. MCLAURINE: I wanted to present  
9 rulings of the Supreme Court and  
10 state rulings as to evidence of  
11 what my understanding of the law  
12 was in order to determine the  
13 mistake of law defense. And I  
14 believe you had ruled that I am  
15 not allowed to enter those? Is  
16 that what you had --

17 THE COURT: Yes. I'm not going to let  
18 you introduce court decisions or  
19 citations to the jury. You can --  
20 you have a jury charge as to the  
21 law. That's what jury charge  
22 is -- That's what that's supposed  
23 to be about.

24 MR. MCLAURINE: Right. And --

25 THE COURT: The evidence is the facts

1 of the case. Your argument is  
2 what you think the effect of that  
3 evidence is.

4 MR. MCLAURINE: Yes, sir. And part of  
5 the burden of proof of the  
6 prosecution is to establish that I  
7 had an intent to obstruct a  
8 government officer and that if my  
9 belief was that that officer was  
10 not acting in his official  
11 capacity, based on my  
12 understanding of the law, I could  
13 have no intent to do what was  
14 said.

15 THE COURT: Well, that's argument.

16 MR. MCLAURINE: Okay.

17 MR. WHITE: Your Honor, the mistake of  
18 law is no defense.

19 MR. MCLAURINE: It is when a state of  
20 mind is necessary.

21 THE COURT: All right. Anything else?  
22 All right. Bring the 13 in. Do  
23 you have the names of those?

24 MR. MCLAURINE: No, I don't.

25 THE CLERK: You just want the 13?

1 THE COURT: And the others need to be  
2 released and to stay in touch by  
3 code-a-phone. They can go for  
4 today. Which are the thirteen?

5 PROSPECTIVE JUROR: We are.

6 THE COURT: All right. Ladies and  
7 gentlemen, you have been selected  
8 to be the jury in this case.  
9 There are thirteen of you. Twelve  
10 of you are the regular jury. One  
11 is an alternate. That person will  
12 not be identified until the case  
13 has completely concluded and the  
14 case is ready to be submitted to  
15 you for your verdict. That's  
16 after all the evidence and after  
17 the charge by the Court and the  
18 lawyers' presentation. So one of  
19 you is an alternate, but all  
20 thirteen of you need to try this  
21 case at this point.

22 I need to first give you your  
23 oath and then I want to give you  
24 some instructions, and then I'm  
25 going to release you for lunch and

1 we will come back for the opening  
2 arguments. So at this time, if  
3 you would raise your right hand to  
4 be sworn? Do you solemnly swear  
5 that you will well and truthfully  
6 try all issues which may be  
7 submitted to you during the trial  
8 of this case and true verdicts  
9 render according to the evidence,  
10 so help you God? Say I do.

11 PROSPECTIVE JURORS: I do.

12 THE COURT: All right. Thank you.

13 Now, these are some instructions  
14 for you to follow regarding your  
15 conduct during the case and also  
16 to tell you sort of an outline of  
17 what's going to happen as the case  
18 proceeds. It's important that you  
19 observe these rules of conduct  
20 during your service as a juror in  
21 the case. These rules are  
22 directed to your conduct when you  
23 are outside the jury box, whether  
24 it be during a recess or an  
25 overnight separation. Strict

1 compliance with these rules will  
2 help ensure a fair trial to all  
3 concerned. Failure to comply with  
4 these rules on the other hand  
5 could result in the case having to  
6 be tried again.

7 These rules are conduct are as  
8 follows. You should have no  
9 discussions with anyone about this  
10 case nor should you allow anyone  
11 to discuss it in your presence or  
12 hearing. If anyone, including a  
13 member of your family, seeks to  
14 engage you in conversation about  
15 the case, you should respond that  
16 you are under a court order not to  
17 discuss the case. It would be  
18 improper for you to discuss the  
19 case even with a fellow juror  
20 except during deliberation in the  
21 jury room. Once a verdict has  
22 been returned in the case and your  
23 service as a juror in the case is  
24 complete, then you may discuss the  
25 case with whomever you wish to

1 whatever extent you wish or not at  
2 all if you wish.

3 You should not read any  
4 newspaper account of the case nor  
5 should you watch watch account of  
6 this on TV or listen to any  
7 account on the radio.

8 You should not have any  
9 conversation with any attorney or  
10 party or witness in the case, even  
11 about matters unrelated to the  
12 case, for it might appear to  
13 others that you were discussing  
14 the case.

15 You should not seek to make  
16 any investigation of your own  
17 regarding the case.

18 You should not visit the scene  
19 of any occurrence which is at  
20 issue in the case and you should  
21 not conduct any experiment  
22 regarding the case.

23 You should not consult any  
24 resource material such as a law  
25 book, a dictionary, encyclopedia,

1 or the Bible about any issue in  
2 the case.

3 The law contemplates that your  
4 verdict will be based upon the  
5 evidence and the law presented to  
6 you during the trial and your  
7 reliance upon any other  
8 information gained as a result of  
9 a private investigation would be  
10 improper.

11 You should isolate yourself  
12 from any circumstance which might  
13 influence your verdict in the  
14 case, and you should guard against  
15 any conduct which would give  
16 anyone in the case reason to doubt  
17 your fairness and impartiality in  
18 the case. The Court would  
19 appreciate your compliance with  
20 these rules.

21 Now, let me tell you something  
22 about the process that you'll be  
23 seeing as the trial progresses.  
24 Counsel for the City of Auburn  
25 will make an opening statement in



1 the case. The defendant  
2 represents himself and he will be  
3 making a statement outlining the  
4 defenses in the case. Each side,  
5 in the opening statement, will be  
6 confined to an outline of the case  
7 and a statement of what they  
8 expect the evidence to show. This  
9 statement is intended to  
10 familiarize you and the Court with  
11 the case so that you will be  
12 familiar with the theories and  
13 contentions of each side from the  
14 beginning.

15 An attorney is an officer of  
16 the court. It's his duty to  
17 present evidence on behalf of his  
18 client and to make such objections  
19 as deemed proper and to fully  
20 argue the client's cause. An  
21 attorney's statements and  
22 arguments are intended to help you  
23 understand the evidence and to  
24 apply the law. However, they are  
25 not evidence and you should

1 disregard regard remark,  
2 statement, or argument which is  
3 not supported by the evidence or  
4 by the law as given to you by the  
5 Court.

6 Likewise, statements made by  
7 the Court are not evidence and are  
8 not to be considered by you.

9 Mr. McLaurine represents  
10 himself, so he's operating as his  
11 own attorney. But when he takes  
12 the stand under oath, then he  
13 would he would testifying in the  
14 case. Otherwise, he is acting as  
15 an attorney in the case until he  
16 is sworn and put on the witness  
17 stand.

18 Following the opening  
19 statements by counsel, witnesses  
20 will first be called by the City  
21 of Auburn to testify. After the  
22 City of Auburn has presented  
23 witnesses, the defendant will then  
24 be permitted to call witnesses to  
25 testify. All witnesses will be

1 sworn and will testify under  
2 oath. Their testimony will be  
3 evidence. There may be exhibits  
4 offered which, if received by the  
5 Court, will also be evidence. It  
6 will be upon all this evidence  
7 that you will arrive at your  
8 verdict.

9 When a judge and a jury sit  
10 together as a court of law, it's  
11 the duty of the judge to see that  
12 the trial progresses in an orderly  
13 fashion, to rule upon all legal  
14 matters that are presented, to  
15 define the issues that are  
16 involved and instruct the jury as  
17 to the law applicable to the  
18 particular case.

19 It will be your duty as jurors  
20 to follow the law as so stated to  
21 you by the judge. You will  
22 therefore rend a verdict in  
23 accordance with the facts you  
24 determine them from the evidence  
25 and the law as given to you by the

1 Court. You will be the sole and  
2 exclusive judges of the facts. It  
3 will be your duty to attempt to  
4 reconcile the testimony of all the  
5 witnesses so as to make them all  
6 speak the truth. If this can be  
7 done reasonably. If you cannot  
8 reasonably reconcile all the  
9 testimony, it is in your duty to  
10 consider the testimony with the  
11 view of determining what the true  
12 facts are. In so doing, you may  
13 accept or reject any part of the  
14 testimony of any witness and  
15 accept only the testimony you  
16 consider worthy of belief.

17 In determining what the true  
18 facts from the evidence are, you  
19 may take into consideration any  
20 natural interest or bias a witness  
21 may have as a result of any  
22 connection with the case. You may  
23 take into consideration the  
24 interest or bias a witness may  
25 have may have shown while

1                   testifying.

2                   You may take into  
3                   consideration the demeanor of any  
4                   witness, as to whether the witness  
5                   has apparently testified frankly  
6                   or evasively.

7                   You may take into  
8                   consideration any matter which you  
9                   would, in your everyday affairs,  
10                  in passing upon the truthfulness  
11                  and accuracy of the testimony.  
12                  Weigh the testimony in light of  
13                  your common observation and  
14                  experience and reach a verdict  
15                  that will be based upon the truth  
16                  as you determine it from the  
17                  evidence.

18                  During the trial, I will rule  
19                  on objections by counsel as to the  
20                  admissibility of evidence and  
21                  other evidence. It will be the  
22                  privilege of the counsel and his  
23                  duty to make such objections to  
24                  the offer of evidence which  
25                  counsel deems illegal and

1 improper. You must not concern  
2 yourself with the reason for my  
3 ruling since they are controlled  
4 and required by rules of law. You  
5 are not to speculate as to what  
6 possible answers to questions  
7 would have been which I do not  
8 require to be answered.

9 The overruling of objections  
10 to evidence is not intended to  
11 indicate the the weight to be  
12 given such evidence by you. Such  
13 admitted evidence will be  
14 considered along with all other  
15 evidence. You are to disregard  
16 all evidence which the Court may  
17 exclude.

18 Following the close of the  
19 evidence, the case will then be --  
20 argument of counsel will proceed  
21 and it will be the privilege of  
22 the counsel to address you at that  
23 time. This is sometimes referred  
24 to as the summation. We refer to  
25 it as the argument of counsel.

1 Counsel have the right to discuss  
2 the evidence and all reasonable  
3 inferences to be drawn therefrom  
4 to help you arrive at a just and  
5 and verdict.

6 Counsel for the City of Auburn  
7 will have the right to open the  
8 arguments. Counsel for the  
9 defendant has the right to follow  
10 the opening argument. Counsel for  
11 the city has the right to make a  
12 closing argument after that.

13 Following the arguments of  
14 counsel, it will be the duty of  
15 the court to state to you the  
16 applicable rules to guide you in  
17 arriving at your verdict. The  
18 case will then be submitted to you  
19 for your deliberation and  
20 verdict.

21 Upon retiring to the jury room  
22 to consider your verdict, you will  
23 elect one of your number as a for  
24 person to moderate your discussion  
25 and to sign and return the verdict

1 arrived at by you to the court.

2 All right. What says the City?

3 MR. WHITE: City is satisfied.

4 THE COURT: What says the defendant?

5 MR. MCLAURINE: Satisfied.

6 THE COURT: All right. You are going  
7 to be excused now for lunch. You

8 need to be back here at 1:30.

9 Give you a little over an hour.

10 You will be handed note pads -- I

11 don't know if you've already

12 handed them -- All right. You

13 will be given note pads when you

14 come back to the jury room. Come

15 back here so you'll be ready to

16 come in at 1:30.

17 You need to write your name on

18 your note pad and that will be

19 yours to leave in the jury room

20 when you leave during the day or

21 at night, and you are not to carry

22 that outside the courthouse or the

23 jury room other than bringing it

24 in here for you to make notes

25 during the trial. And you are to



1 stay in touch with the  
2 code-a-phone as to further  
3 directions from the court.

4 So, at this point, I'm going  
5 to dismiss you, and you will  
6 follow the directions of the  
7 bailiff. He will tell you how to  
8 go out and come back in. You  
9 going to show them how to come  
10 back in without going through the  
11 security? And you'll then go  
12 directly to the jury room and wait  
13 to be called in, and then we will  
14 start the trial of the case. And  
15 the first thing you will hear will  
16 be the opening statements of the  
17 attorneys, and then they will put  
18 on the evidence in the case. All  
19 right. Thank you and we will see  
20 you back here at 1:30.

21 (Jury exits the courtroom.)

22 THE COURT: All right. We will be in  
23 recess until 1:30.

24 (Recess for lunch)

25 THE COURT: All right. Everyone is

1 back. All right. The jury is in  
2 the box and the parties and  
3 attorneys are present. Mr. White,  
4 you may make your opening  
5 statement.

6 MR. WHITE: Thank you, Your Honor. May  
7 it please the Court. The judge,  
8 at the beginning of the case, went  
9 over a few statements of law that,  
10 as a background to this case, I  
11 would like to just talk to you  
12 about briefly. Okay?

13 First statement is, this is a  
14 statute in the State of Alabama.  
15 Can all of y'all read that? Is  
16 that close enough? Basically says  
17 any sheriff or other officer  
18 acting as a sheriff -- basically  
19 any law enforcement officer, any  
20 highway patrolman, any state  
21 trooper -- and here begins the  
22 important part -- may stop any  
23 person abroad in a public place  
24 whom he reasonably suspects is  
25 committing, has committed, or is

1 about to commit a felony or other  
2 public offense and may demand of  
3 him his name, address, and an  
4 explanation of his actions.  
5 Okay? Can y'all read that?  
6 Barely?

7 This is what the defendant is  
8 charged with. This is the actual  
9 charging -- this is the crime that  
10 the defendant is alleged to have  
11 committed at this point,  
12 obstructing government  
13 operations. A person commits a  
14 crime of obstructing governmental  
15 operations if by means of  
16 intimidation, physical force or  
17 interference, or by any other  
18 independently unlawful act he  
19 intentionally obstructs, impairs,  
20 or hinders the administration of  
21 law or other governmental  
22 function; or, two, intentionally  
23 prevents a public servant from  
24 performing a governmental  
25 function. That's just as way of

1 background so that you'll know  
2 what we're talking about in this  
3 case.

4 Let me tell you what the case  
5 is factually about. On November  
6 27, 2004, at about 12:45 in the  
7 morning, the Auburn Police  
8 Department received a 911 call of  
9 a mysterious man walking through a  
10 neighborhood. The caller said he  
11 was stopping and looking and that  
12 he had something in his hand.

13 Keep in mind this is 12:45 in the  
14 morning on November 27, 2004.

15 That's during the period of the  
16 Thanksgiving holidays for Auburn  
17 University students. The location  
18 of this call, this complaint came  
19 in from, was right over there near  
20 campus. If you're familiar with  
21 Magnolia Avenue, as you are coming  
22 up Magnolia Avenue toward downtown  
23 Auburn, there's a McDonald's there  
24 on your left, there's a Wendy's  
25 there on your left. It's the

1 neighborhood back in there, back  
2 behind -- I know it as the Lamda  
3 Chi house, that area back behind  
4 there. That's where this call  
5 came from.

6 And the evidence is going to  
7 be that during that period of  
8 time, during the Thanksgiving  
9 holidays, is a period where many  
10 students leave for the  
11 Thanksgiving holidays, and that  
12 area there is essentially vacant  
13 or very -- not very many people  
14 there during that period of time.  
15 And it's also a period of time  
16 when the police officer will  
17 testify that Auburn experiences an  
18 elevated crime rate -- burglaries,  
19 thefts, that kind of thing --  
20 related to student housing.

21 So Lavarro Bean gets a call on  
22 his radio from dispatch regarding  
23 this 911 call. This is Officer  
24 Lavarro Bean. He gets a call  
25 responding to this area of a

1 suspicious or mysterious man  
2 walking in the neighborhood, who  
3 is stopping and looking and may  
4 have something in his hand.

5 So he responds to that area,  
6 and immediately upon responding to  
7 that area, he sees Mr. McLaurine,  
8 the defendant, walking down the  
9 roadway on Toomer Street, which  
10 the officer will tell you is just  
11 right off Gay Street, in that  
12 general area that I'm talking to  
13 you about.

14 Officer Bean gets out of his  
15 car, questions Mr. McLaurine.  
16 Hey, what's your name? Where you  
17 going? What you doing?  
18 Immediately, the defendant will  
19 not respond to his questions.

20 Just tell me your name.

21 No, sir. I don't have to tell  
22 you my name.

23 Where are you going? What are  
24 you doing?

25 No. I think he says something

1 like, I don't have to participate  
2 in your illegal investigation.  
3 Refuses to give any basic  
4 identifying information, refuses  
5 to give an explanation of his  
6 whereabouts, refuses to give his  
7 address.

8 Officer Bean is, you know, to  
9 be honest, is dumbfounded. He's  
10 like, just tell me your name.  
11 What are you doing? Just give me  
12 some information.

13 Stonewalled. The defendant  
14 will not give him any  
15 information.

16 So officer Bean gets on the  
17 phone to his supervisor, which is  
18 Sgt. Matthews, who is now  
19 Lt. Matthews. And Sgt. Matthews  
20 will be here to testify as well.

21 Sgt. Matthews responds to the  
22 scene and goes through the same  
23 line of questioning with  
24 Mr. McLaurine. What's your name?  
25 What are you doing out here this

1 time of night? What's your  
2 address?

3 No, sir, I don't have to  
4 respond to that. No, sir, I'm not  
5 going -- I'm not going to give you  
6 that information.

7 They went so far as to tell  
8 him, listen, if you'll just give  
9 us this information, we'll send  
10 you on your way. If you're not  
11 wanted for a burglary or if you're  
12 not a terrorist, we're going to  
13 send up on your way, but you have  
14 to give us this basic  
15 information.

16 No, sir. I'm not going to --  
17 I'm not going to do that. I  
18 refuse to do that.

19 Lt. Howell is called, the  
20 shift supervisor for that night.  
21 Lt. Howell arrives sometime  
22 later. Same line of questioning.  
23 Mr. McLaurine, you understand that  
24 if you don't give us this  
25 information we're going to have to



1 place you under arrest. You're  
2 going to give us no other choice  
3 but to place you under arrest.

4 Yes, sir, I understand that.

5 Well, will you give us your  
6 name?

7 No.

8 Will you give us your  
9 address?

10 No.

11 Are you going to tell us what  
12 you're doing out here this time of  
13 night?

14 No.

15 And at that point,  
16 Mr. McLaurine is placed under  
17 arrest for obstructing government  
18 operations, for hindering their  
19 investigation of this potential  
20 crime.

21 Now, the evidence will show  
22 that Mr. McLaurine was given  
23 repeated opportunities to identify  
24 himself, to give basic information  
25 which is required by the statute

1 that you just saw, and he refused  
2 to do that. And based upon that,  
3 he was charged with obstructing  
4 government operations. And based  
5 upon those same set of facts, are  
6 going to ask that you convict him  
7 of obstructing government  
8 operations. Thank you.

9 THE COURT: All right, sir.

10 Mr. McLaurine?

11 MR. MCLAURINE: I want you to look at  
12 the same information he just  
13 showed you. I want you to notice  
14 that 13A-10-2 automatically  
15 charged with obstructing  
16 government operations is the  
17 criminal code. 15-5-30 is the  
18 statute authorizing a police  
19 officer to make a demand, as the  
20 statement says, when he has  
21 reasonable suspicion. This law  
22 does not say it's illegal not to  
23 give a police officer  
24 identification. It requires that  
25 certain actions be initiated by me

1 by means of intimidation, by  
2 physical force or interference, or  
3 by any independently unlawful  
4 act. That has to happen first.  
5 Then that act has to be  
6 intentionally obstructing or  
7 impairing or hindering the  
8 administration of law or other  
9 governmental function.

10 The key word there is  
11 intentional. I had to form an  
12 intent to obstruct, impair, or  
13 hinder or, in the second clause  
14 here, to prevent a public servant  
15 from performing a government  
16 operation. That's what's  
17 necessary to convict me. You have  
18 to agree that those things  
19 occurred. Just because I refused  
20 to give a police officer  
21 identification doesn't mean I  
22 broke the law.

23 In order to form that intent,  
24 I had to know that the police  
25 officer was performing in his

1 capacity as a public servant or  
2 during the administration of law.  
3 That means he had to be  
4 authorized. May I show the other  
5 document that you just showed?

6 MR. WHITE: Sure.

7 MR. MCLAURINE: Is it over there?

8 MR. WHITE: I believe it is, yes, sir.

9 MR. MCLAURINE: The key phrase here is  
10 whom he reasonably suspects is  
11 committing, has committed, or is  
12 about to commit a commit a felony  
13 or other public offense. And  
14 that's the key part. Reasonably  
15 suspect, as a definition of law,  
16 for which the judge will instruct  
17 you what it is. It will be your  
18 job to make sure that the evidence  
19 they present meets that minimum  
20 standard. If it doesn't, I could  
21 not obstruct a government official  
22 in his capacity as an official  
23 because he wasn't there. That's  
24 all I have, Your Honor.

25 THE COURT: All right. Call your first

1 witness.

2 MR. WHITE: City calls Officer Bean.

3 THE COURT: Come right over here and  
4 raise your right hand.

5 LAVARO BEAN

6 The witness, having first been duly  
7 sworn to speak the truth, the whole truth and  
8 nothing but the truth, testified as follows:

9 THE COURT: Come around here and have a  
10 seat and speak directly into that  
11 microphone.

12 DIRECT EXAMINATION

13 BY MR. WHITE:

14 Q. Officer, state your name for the Record,  
15 please, sir.

16 A. Lavaró Bean.

17 Q. And how are you employed?

18 A. Patrolman with the City of Auburn.

19 Q. And how long have you been employed in that  
20 capacity?

21 A. 16 years.

22 Q. And is that also the same period of time that  
23 you have been in law enforcement in general?

24 A. Yes, sir.

25 Q. Are you familiar with the area that this

1 incident occurred?

2 A. Yes, sir. Toomer Street and Genelda Avenue.

3 Q. If I ask you just to draw behind you a basic  
4 sketch of the area where this incident  
5 occurred, would you be able to do that?

6 A. Yes, sir.

7 Q. Could you do that for me, please?

8 A. Yes, sir.

9 Q. Taking into account it's not to scale, just  
10 to give the jurors an idea of where this  
11 thing this happened?

12 A. (Witness complies.)

13 Q. So you've drawn a basic sketch there and it  
14 shows Glenn at the bottom -- I think I may  
15 have said Gay earlier, but Glenn at the  
16 bottom, Magnolia at the top. Where would  
17 College Street be on this scale?

18 A. College Street is that way.

19 Q. Okay. Point to where the McDonald's on  
20 Magnolia would be.

21 A. It would be in this area up here.

22 Q. And where would -- where would Toomer's  
23 Corner be?

24 A. It would be back over this way.

25 Q. All right. And then the street that you have

1 named there, I don't know if the jury can  
2 read that. This is Toomer Street here; is  
3 that correct?

4 A. Yes, sir.

5 Q. And then this is Genelda?

6 A. Yes, sir.

7 Q. Okay. Thank you. All right. Now, let me  
8 direct your attention back to the early  
9 morning hours of November 27, 2004. Were you  
10 dispatched to that area?

11 A. Yes, sir, I was.

12 Q. Okay. Can you give the jury the nature of  
13 the dispatch call that you received?

14 MR. MCLAURINE: Objection, hearsay. He  
15 was not privy -- Officer Bean was  
16 not privy to the conversation.

17 THE COURT: Well, he's asking the  
18 nature of the call. Overruled.

19 Q. You received a dispatch call for you to  
20 respond to a certain area; is that correct?

21 A. Yes, of a suspicious or mysterious person  
22 walking in the area of North College Street  
23 and Glenn Avenue. And he should be walking  
24 westbound toward Donohue.

25 Q. Westbound toward Donohue would be which

1 direction?

2 A. Would be -- if you keep going, Glenn Avenue  
3 would be about three blocks that way.

4 Q. And did you respond to that location?

5 A. Yes, sir, I did.

6 Q. Okay. What, if anything, did you observe  
7 upon responding at that location?

8 A. When I received the call, I was at the  
9 intersection of Glenn and Gay, and I  
10 responded immediately over to College and Gay  
11 Street -- I mean College and Glenn, and I  
12 didn't see anybody fitting that description.

13 Q. Okay. Then what did you do?

14 A. I proceeded through the light. I continued  
15 down Glenn Avenue, passing Wright Street, and  
16 finally came to this point as I was about to  
17 pass Toomer Street. I looked in that  
18 direction and saw a -- the only person  
19 walking period, which was McLaurine.

20 Q. Okay. And when you received the dispatch,  
21 were you given a clothing description?

22 A. I was.

23 Q. Do you remember what that clothing  
24 description was?

25 A. I believe it was dark pants and maybe a gray



1 shirt.

2 Q. Gray?

3 A. Or jacket.

4 Q. Okay. Did Mr. McLaurine's appearance  
5 generally match the clothing description that  
6 you were given?

7 A. Yes, sir, it did.

8 Q. And what, if anything, did you do when you  
9 observed Mr. McLaurine?

10 A. As I backed up, I noticed he was about 40 to  
11 50 yards down Toomer Street. I proceeded  
12 down Toomer Street, noticed that he had on  
13 white cap, and I radioed dispatch and let  
14 them know that he was also wearing a white  
15 cap and that I was about to be out.

16 Q. Okay. What, if anything, did you notice  
17 about him before you got out on him? Did you  
18 notice anything about his gait or the way he  
19 was behaving or the anything of that nature?

20 A. Yes. As I watched him walk, he was walking  
21 on I believe it's going to be the east side  
22 of the sidewalk on this side of the street.  
23 He was walking very slowly, had his hands in  
24 his jacket, and he was looking in the area of  
25 the houses on this area.

1 Q. Okay. Tell me about November 27,  
2 Thanksgiving holidays. As a police officer  
3 in the city of Auburn, what's important about  
4 that period of time?

5 A. That's definitely one of the two times  
6 a year when our burglaries happens,  
7 especially the apartments along those areas.  
8 We often put officers on the ground,  
9 especially that late at night, to walk those  
10 areas to make sure that we don't have many  
11 burglaries.

12 Q. So Thanksgiving holidays is one of those  
13 periods of times?

14 A. Yes, sir.

15 Q. And then Christmas holidays would be the  
16 other one?

17 A. Yes, sir. And then spring break.

18 Q. Spring break, okay. And so when you get a  
19 call of a suspicious individual in that area,  
20 that rings a bell with you, so to speak,  
21 doesn't it?

22 A. Yes, sir, it does.

23 Q. Okay. And so you responded to  
24 Mr. McLaurine. What did you do immediately  
25 upon arriving upon?

1 MR. MCLAURINE: Objection. Officer  
2 Bean has not established a  
3 reasonable suspicion to approach.

4 THE COURT: Overruled.

5 A. I got out of my car. I called to him. I  
6 said, hey, stop. He didn't stop. He  
7 continued to walk and basically ignored me.

8 Q. Uh-huh.

9 A. One of the things I like to do is when I'm  
10 approaching a suspicious person is to take  
11 kind of a cover. Because he didn't stop, I  
12 had to come out of the door in my car and  
13 pursue after him.

14 Q. What happened after that?

15 A. I called to him a second time to say, hey,  
16 stop, a little louder. And he did at that  
17 point.

18 Q. Okay. After he stopped, what, if anything,  
19 did you say to him?

20 A. I -- first thing I asked him, I asked him who  
21 he was and why was he here.

22 Q. Okay. Let me ask you this, first of all.  
23 Were you in a marked patrol car?

24 A. Yes, sir.

25 Q. And were you wearing your uniform?

1 A. Yes, sir, I was.

2 Q. And you asked him who he was and what he was  
3 doing there?

4 A. Yes, sir.

5 Q. And did he respond to you?

6 A. He told me, Officer, I don't have to answer  
7 those questions.

8 Q. That was his first response to you?

9 A. Yes, sir.

10 Q. Okay. Did he give you a reason why he said  
11 he didn't have to respond to those questions  
12 at that point?

13 A. No, he did not.

14 Q. So tell me what happened at that point. What  
15 did you say to him? What did he say to you?

16 A. At that point, I basically said Mr. -- I  
17 said, sir, do you have any weapons on you? I  
18 said, all I need to see is some ID and you  
19 can be on your way. I said, but I have to  
20 see some ID or you need to tell me your name  
21 or something. And he refused.

22 Q. And do you have an estimation of how many  
23 times you asked Mr. McLaurine that evening to  
24 state his name or tell you where he was going  
25 or give you his address?

1 A. Until he was arrested, it probably was 24,  
2 couple dozen times.

3 Q. And how long -- I know some other officers  
4 arrived later, but how long were you there  
5 with Mr. McLaurine from the time that you  
6 first approached him and questioned him until  
7 he was ultimately placed under arrest?

8 A. I think it was inside of 30 minutes.

9 Q. All right. Tell me what, if anything, you  
10 did -- I realize at some point you called  
11 Sgt. Matthews. And tell the jury what  
12 Sgt. Matthews is in relation to you.

13 A. He was the sergeant at the time, shift  
14 supervisor.

15 Q. Okay. And at some point in time, you called  
16 Sgt. Matthews; is that correct?

17 A. Yes, sir.

18 Q. And why did you do that?

19 A. Well, I explained to Mr. McLaurine that I  
20 was -- that he was giving me no other options  
21 but to possibly place him under arrest. I  
22 didn't want to make an arrest on him if I  
23 could possibly get out of it, so I called my  
24 shift supervisor. Maybe he knew some other  
25 way to talk with him, see if he could get him

1 to talk with us.

2 Q. Okay. And then Sgt. Matthews arrived at the  
3 scene?

4 A. He did.

5 Q. And were you present when Sgt. Matthews  
6 talked to the defendant?

7 A. Yes, I was.

8 Q. Okay. Do you remember what Sgt. Matthews  
9 said to the defendant?

10 A. Not everything.

11 Q. Just to the best of your recollection, what  
12 did Sgt. Matthews say?

13 A. He basically went over the same things that I  
14 told him, that he has to -- we told him, the  
15 law says you must give us your name and  
16 address. And we asked him -- he asked him  
17 repeatedly. He said, are you refusing to do  
18 this? The response was, yes, I'm not going  
19 to give you anything.

20 Q. And, at some point, was a question asked of  
21 him, do you recognize us as being law  
22 enforcement officers of the City of Auburn?

23 A. Yes, sir.

24 Q. Okay. Who asked that?

25 A. I asked that first, before Matthews got

1           there. His response was, I understand your  
2           interpretation of the law, but I'm not going  
3           to answer your questions. And he repeated  
4           that when Sgt. Matthews asked him.

5       Q.   Did he tell you that he disagreed with your  
6           interpretation of the law?

7       A.   That's true.

8       Q.   Okay. All right. So Sgt. Matthews gets  
9           there, goes through the same thing that you  
10          just told us; is that correct?

11      A.   Yes.

12      Q.   What, if anything, happened after  
13          Sgt. Matthews arrived? After Sgt. Matthews  
14          had gone through that line of questioning  
15          with the defendant, what happened at that  
16          point?

17      A.   He told us to watch McLaurine. He got on the  
18          telephone and he called the shift commander,  
19          which is Lt. Howell.

20      Q.   Lt. Howell was the shift commander; is that  
21          correct?

22      A.   That is correct.

23      Q.   And he would have been the highest person on  
24          duty that night with the Auburn Police  
25          Department; is that correct?

1 A. That is correct.

2 Q. Now, let me back up just a minute. Before he  
3 called Lt. Howell, he asked you to do  
4 something. What was that?

5 A. He told me to make sure that my -- turn the  
6 camera on and also to provide Mr. McLaurine  
7 with his rights.

8 Q. Now, we are going to see a video here in just  
9 a minute, but the video picks up at the point  
10 in time where you have already spoken to the  
11 defendant and Sgt. Matthews has already  
12 spoken to the defendant; is that right?

13 A. Yes, sir.

14 Q. Okay. And while I'm on the issue of the  
15 video, part of the video doesn't have sound.  
16 Do you know why that is?

17 A. Yes, sir.

18 Q. Why is that?

19 A. The -- We have a microphone that connects to  
20 the unit transmitter, and it was -- for some  
21 odd reason, it didn't work that night and had  
22 a short in it, found out later.

23 Q. So we have visual but we don't have audio --

24 A. Correct.

25 Q. -- correct?



1 A. Yes, sir.

2 Q. All right. So going back to where we left  
3 off, Sgt. Matthews gets on the phone to  
4 Lt. Howell.

5 A. Right.

6 Q. And Lt. Howell, does he arrive at the scene?

7 A. Yes, sir, he does.

8 Q. And were you present when Lt. Howell spoke  
9 with the defendant?

10 A. I was.

11 Q. And do you recall, best of your recollection,  
12 what Lt. Howell said to the defendant?

13 A. Just repeated the same thing; basically, we  
14 need your name and number and you're free to  
15 to go. All we need to know is your name so  
16 we can run a computer check, make sure you're  
17 not wanted anywhere. And if you're not  
18 wanted, you're free to go. But he refused.

19 Q. Okay. Would you say that you gave him many  
20 opportunities to give you his name, address,  
21 and basic information, and he refused those  
22 many opportunities?

23 A. Yes, sir.

24 Q. Now, at some point during your  
25 conversation -- I believe it was when

1 Sgt. Matthews goes back to call Lt. Howell --  
2 you tried to joke around with him a little  
3 bit to loosen him up; isn't that right?

4 A. Yes, sir, I did.

5 Q. Okay. What did you say to him when you were  
6 trying to joke around with him?

7 A. I kept begging him. I kept telling him, just  
8 give us your name. And I would throw in  
9 there -- I said, you're not talking to me  
10 just because I'm black, are you? And kind of  
11 got a little smirk out of him. But he still  
12 wouldn't.

13 Q. You said that just as a way to try to loosen  
14 things up and see if he might talk to you?

15 A. Right.

16 Q. Okay. Didn't work?

17 A. No, sir.

18 Q. Okay. Officer, I'm going to play this  
19 videotape. You've viewed this videotape  
20 before today, haven't you?

21 A. Yes, sir.

22 Q. Does it fairly and accurately depict what  
23 transpired out there that evening from the  
24 time that it starts until the time it stops?

25 A. Yes, sir.

1 MR. WHITE: This is City's Exhibit 2.

2 I move to admit City's Exhibit 2.

3 THE COURT: Any objection? All right.

4 Exhibit 2 is admitted. So that  
5 the record is clear, Mr. McLaurine  
6 indicated no objection. Don't  
7 just shake your head. You have no  
8 objection?

9 MR. MCLAURINE: Actually -- No. No  
10 objection.

11 Q. Now, Officer, just so we know, how long does  
12 this last; do you know? Approximately ten  
13 minutes?

14 A. Yes, sir, I believe so.

15 (tape played)

16 Q. While that's still running, let me ask you  
17 one question. When you get back in the car,  
18 the internal microphone picks up at that  
19 point; is that correct?

20 A. That is correct.

21 Q. Excuse me. I would like the jury to see the  
22 entire tape. I thought you turned it off.  
23 I'm sorry. Officer Bean, there was some radio  
24 traffic there at the end. Were you a part of  
25 some of that radio traffic?

1 A. Yes, sir.

2 Q. And what did you say into the radio?

3 A. What I did was I asked the dispatcher to  
4 check county wide and see if he had any  
5 warrants county wide, that I was headed to  
6 the jail with him.

7 Q. You said 10-8 I believe. What does that  
8 mean?

9 A. That means in service.

10 Q. And did you -- I believe I heard you say  
11 obstructing?

12 A. Yes, sir. I just let the dispatcher know  
13 what he was charged with.

14 Q. So you said 10-8, obstructing?

15 A. Yes, sir.

16 Q. All right. You drive Mr. McLaurine to the  
17 county jail?

18 A. Yes, sir.

19 Q. What, if anything, happened at the county  
20 jail?

21 A. Once I got Mr. McLaurine inside the booking  
22 area of the jail, he -- I started to take the  
23 handcuffs off of him. He turns to me and  
24 said, am I charged with a crime?

25 I said, what?

1 He said, am I charged with a crime?

2 I said, yes, you're charged. I said, I  
3 charged you out on the scene.

4 He said, I want to know if I'm  
5 officially charged with a crime.

6 I said, you are under arrest for -- and  
7 I told him obstructing governmental  
8 operations.

9 And he said, okay, then I'll do whatever  
10 you want me to do.

11 Q. Okay. And so, at that point, did he give you  
12 his name?

13 A. Yes, sir. He provided his name, information.

14 Q. He provided you his name, his information.  
15 Did he tell you what he was doing out there  
16 that night?

17 A. I think he said something about walking to a  
18 restaurant or Subway.

19 Q. Walking to Subway?

20 A. Yes, sir.

21 Q. He told you that when he got to the jail  
22 house?

23 A. Yes, sir.

24 Q. But he wouldn't tell you that at the scene;  
25 is that correct?

1 A. That is correct.

2 MR. WHITE: I believe that's all I have  
3 for this officer.

4 THE COURT: All right, sir.

5 Cross-examination?

6 CROSS EXAMINATION

7 BY MR. MCLAURINE:

8 Q. Officer Bean , did I speak with anyone, to  
9 your knowledge, besides police officers from  
10 the moment you contacted me until the moment  
11 you put handcuffs on me?

12 A. No, sir.

13 Q. Did you ever explain why you wanted to have  
14 my identification and what I was doing and my  
15 name?

16 A. Yes, sir, I did.

17 Q. What was your explanation? I don't believe I  
18 heard any testimony.

19 A. One of the things I am explained to you is  
20 that in that particular neighborhood,  
21 basically, the crime does go up at that  
22 particular time of year; that I just can't  
23 let you walk away, because if something has  
24 happened, I need to know who you are and how  
25 to get in touch with you.

111

1           And I also explained to you that there  
2           has been a mysterious death in that  
3           neighborhood and that it's still unexplained  
4           to this day.

5       Q.   Did you ever offer an explanation that  
6           specifically identified something I did as  
7           suspicious?

8       A.   I just told you I responded to a suspicious  
9           person complaint.

10      Q.   But you can't articulate any particular  
11           action that you found suspicious?

12      A.   Yes, sir.

13      Q.   And what was the specific objective fact you  
14           found suspicious?

15      A.   That you were walking down an abandoned  
16           neighborhood during the time of the year and  
17           time of night that we have -- that's when  
18           normally our burglars come out.

19      Q.   So that was the only piece of information?  
20           There wasn't anything else?

21      A.   Not that I know of.

22      Q.   I would like to ask you a question about a  
23           statement you said you read me my rights or  
24           something to that effect. Are you referring  
25           to the Miranda, sir?

1 A. Yes, sir.

2 Q. You also testified -- well, at what point did  
3 you read the Miranda?

4 A. After Sgt. Matthews showed up.

5 Q. So that was before the start of that tape?

6 A. Yes, sir.

7 Q. Would you read the Miranda for the jury right  
8 now, please?

9 A. I don't know if I recall all of it.

10 MR. WHITE: Your Honor, I object. May  
11 I approach on this?

12 THE COURT: Yes.

13 MR. WHITE: Miranda doesn't apply in  
14 this situation. It's not  
15 custodial interrogation and he  
16 clearly had the duty to respond to  
17 the officer's interrogation. He's  
18 trying to make an argument that he  
19 had a right to remain silent when  
20 he doesn't -- under that statute,  
21 he doesn't. He still has to  
22 provide basic information under  
23 the statute. He's trying to  
24 confuse the jury.

25 MR. MCLAURINE: The important issue



1 here, sir, is whether or not I  
2 understood the instructions of the  
3 officer. I wanted to make sure  
4 that all instructions that he gave  
5 me were presented to the jury so  
6 they could make a decision about  
7 whether I knew specifically what I  
8 had to do.

9 MR. WHITE: I think the jury knows what  
10 the Miranda rights are. There's  
11 no sense in him reading them out  
12 loud here in court.

13 THE COURT: Sustain the objection.  
14 Sustain.

15 Q. You testified you asked questions beyond my  
16 name, my identification, and what I was doing  
17 in the area?

18 A. Yes, sir.

19 Q. What authorized you to do that?

20 A. I'm an employee of the City of Auburn as a  
21 patrolman and I'm obligated to fulfill my  
22 function.

23 Q. So there's no other statute that authorized  
24 to you ask those questions that you can name?

25 A. I don't understand the question.

1 Q. The question is --

2 MR. WHITE: Your Honor, I object. He  
3 doesn't have to have a statute to  
4 ask a question, okay, if that's  
5 what he was asking. I object to  
6 this line of questioning.

7 THE COURT: Overruled. Go ahead.

8 MR. MCLAURINE: You're overruling his  
9 objection?

10 THE COURT: Yes. Go ahead.

11 Q. My question is, the statute specifically  
12 authorized three questions for you to ask.  
13 The other questions you asked, what statute  
14 or provision of law authorized you to ask  
15 those questions?

16 A. Basically Title XV, Alabama law.

17 Q. You cited a section of the code, but you  
18 haven't cited any particular part of the  
19 code.

20 A. When I respond to a suspicious person and I  
21 reasonably believe that he's about to commit  
22 or has committed a crime, the law says I can  
23 come up and ask those questions.

24 Q. Was there a crime you believed that had been  
25 committed?

1 A. I believed there's a crime afoot.

2 Q. What was it?

3 A. The whole investigation was to determine  
4 whether or not a crime has been committed.

5 Q. So did you not have any knowledge that a  
6 crime had been committed?

7 A. No, sir.

8 Q. Did you have knowledge that a crime was being  
9 committed at the moment that you saw me?

10 A. No, sir.

11 Q. Did you have knowledge that a crime was about  
12 to be committed?

13 A. That was to be determined.

14 Q. But you did not have specific knowledge that  
15 a crime was about to be committed?

16 A. No, sir.

17 Q. You mentioned racial statements that you  
18 made?

19 A. Yes, sir.

20 Q. Did I give you any reason to believe that I  
21 harbored racial sentiments myself?

22 A. No, sir.

23 Q. Is it standard practice to interject racial  
24 questions into an interrogation?

25 A. During my 16 years, I have found that certain

1 people respond to certain officers, yes, sir.

2 Q. Was I one of those certain people you  
3 believed that might respond?

4 A. That's what I was trying to determine.

5 Q. Did you make any other racial statements that  
6 evening?

7 A. No, sir, not that I know of.

8 Q. Did you make any other statements about  
9 national origin?

10 A. No, sir.

11 Q. Did you make any statements using the word  
12 Confederate or Confederacy?

13 A. Yes, sir.

14 Q. What was the statement you made?

15 A. I advised you that early in my career I  
16 responded to a call with an officer and this  
17 particular gentleman had warrants for his  
18 arrest. When that officer contacted him, he  
19 told that officer, I refuse to answer any of  
20 your questions because I'm part of the League  
21 of Confederate States and we do not recognize  
22 the laws of the United States. And he told  
23 us our action was illegal. And I told you I  
24 asked you that question to see if, you know,  
25 that was your thinking also.

1 MR. MCLAURINE: I'd like to show you  
2 the statute again. Just turn it  
3 on or -- do I need to turn the  
4 television on to use this  
5 projector?

6 THE COURT: Yes. Go ahead.

7 MR. MCLAURINE: Where is the on  
8 button? Do I need to --

9 MR. WHITE: Video 1.

10 MR. MCLAURINE: Video 1?

11 Q. Officer, what actions did you observe me  
12 perform which you consider intimidation?

13 A. One of the actions you performed was, as I  
14 got through explaining to you what may happen  
15 to you, you said, Officer, if you're done  
16 with me, I'm leaving. And you tried to walk  
17 away.

18 Q. Did you feel that you were in -- you or any  
19 other person was in danger of physical harm  
20 by the action that I proposed?

21 A. Yes, sir. When you first -- when I first  
22 approached you, I got a feeling that  
23 basically your actions was not normal. And  
24 that's why I asked you to, you know, see if I  
25 could pat you down for weapons.

1 Q. So that's it. I was not normal. That's what  
2 you considered a specific reason why someone  
3 might be in danger, because of the action of  
4 me leaving as I proposed it, that specific  
5 thing?

6 A. Well, it's your answer, sir.

7 Q. Did I use physical force at any time?

8 A. No, sir.

9 Q. Did I use physical interference at any time?

10 A. Other than verbal, no, sir.

11 Q. Can you describe any unlawful act I performed  
12 that evening?

13 A. When you refused to give your name, address.

14 Q. Any independently unlawful act?

15 A. I don't understand that question.

16 Q. The statute requires that an act be  
17 independently unlawful.

18 MR. WHITE: Your Honor, I object to his  
19 arguing the law with the witness.

20 THE COURT: Sustained.

21 Q. Officer, Section 13A of the state code is the  
22 section of the criminal code. Is there any  
23 action contained solely within the criminal  
24 code that you observed?

25 MR. WHITE: Your Honor, again, I

1 object. There's no legal basis to  
2 restrict it to 13A. There are  
3 other criminal acts that occur  
4 outside of 13A, namely, 15-330  
5 which he's charged with violating.

6 THE COURT: Sustained.

7 MR. MCLAURINE: All right. Your Honor,  
8 I believe I'm charged with abiding  
9 13A-10-2 with respect to 15-5-30,  
10 and that I did not violate 15-5-30  
11 until I obstructed the officer in  
12 his actions, therefore, that not  
13 being an independently unlawful  
14 act.

15 THE COURT: So the objection is  
16 sustained.

17 Q. Okay. So the two actions you believe qualify  
18 under the statute are my telling you that I  
19 was going to leave and my refusal to provide  
20 identification, name, all that other stuff as  
21 an independent unlawful act.

22 My next question is, there are two  
23 portions here for this section. Let's move  
24 it over some. Let's look at the second one  
25 first. Intentionally prevents a public

1       servant from performing a governmental  
2       function. Did I prevent you from performing,  
3       as a public servant, any governmental  
4       function?

5       A. Yes, sir, you did.

6       Q. What was that?

7       A. Your refusal.

8       Q. You eventually did acquire the information  
9       you wanted?

10      A. That was after you were placed under arrest.

11      Q. Yes, sir. And -- but the statute says that I  
12      did actually prevent you. The first part of  
13      the code says obstructs, impairs, or hinders,  
14      meaning make it difficult for it to happen.

15                So my question is, did I prevent you  
16      from performing what you wanted to prevent --  
17      what you -- what your goal was?

18      A. Yes, sir.

19      Q. I thought you stated earlier that once we got  
20      to the police station and I identified that I  
21      was under arrest, I performed basically  
22      whatever you wanted?

23      A. Yes, sir, you did.

24      Q. So how did I prevent you from performing a  
25      governmental function? You were not -- what



1 I'm asking is, you were completely stopped  
2 from being able to do what you wanted to do?

3 A. Yes, sir. I would have let you go free if  
4 you had performed this -- if you had complied  
5 with the law.

6 Q. All right. The first part, intentionally  
7 obstructs, impairs, or hinders the  
8 administration of law or other government  
9 function.

10 THE COURT: What's the question?

11 MR. MCCLAURINE: I'm go to get to it,  
12 sir.

13 Q. What evidence can you offer that shows a  
14 pattern of attempting to obstruct, impair, or  
15 hinder?

16 MR. WHITE: Objection, Your Honor.

17 THE COURT: Sustained.

18 MR. WHITE: There's no call for --

19 Q. I'm sorry. At any time, did I give you  
20 reason to believe that you were not  
21 performing a lawful investigation?

22 A. Yes, sir.

23 Q. Did you believe my statements to those  
24 effects?

25 A. I don't understand.

1 Q. Did you consider my communication to be an  
2 attempt to mislead you in what I was trying  
3 to do?

4 A. I believed it to be your attempt to hinder  
5 the investigation, yes, sir.

6 Q. I'm not so concerned with did you believe I  
7 was telling the truth, that I believed the  
8 investigation --

9 MR. WHITE: Objection.

10 THE COURT: When are you talking about  
11 in time?

12 MR. MCLAURINE: Sir?

13 THE COURT: When are you talking  
14 about? Identify the time frame in  
15 which you are asking did he  
16 believe what you were saying at  
17 what time.

18 Q. The statement that this was an unlawful  
19 investigation. Did you believe I was telling  
20 you the truth?

21 MR. WHITE: Objection. Calls for a  
22 mental operation, Your Honor.

23 THE COURT: Overruled.

24 MR. WHITE: I'm not sure I understand  
25 the question, Your Honor.

1 THE COURT: It's a confusing question.

2 MR. MCLAURINE: Withdrawn.

3 THE COURT: All right. Anything  
4 further?

5 Q. Officer Bean , when you recently viewed the  
6 tape, did you notice any other activity  
7 besides the police and myself on the tape?

8 A. The cars passing. Lt. Dorman in the  
9 background.

10 Q. Was there a reason you didn't stop those  
11 cars?

12 A. I was in the middle of an investigation.

13 Q. I believe you testified earlier that the  
14 specific reason why I was stopped was because  
15 I was in this area of this neighborhood at  
16 this time of year, day, and night. How many  
17 other police officers were present that  
18 evening?

19 A. At the end of it, it was four.

20 Q. Okay. Is there a reason they didn't stop any  
21 of those people?

22 A. They were all in the middle of the same  
23 investigation.

24 THE COURT: Anything further?

25 MR. MCLAURINE: Yes, sir. It will be a

1                   few minutes. I need to step  
2                   through this.

3       Q. Can you draw on the map you put up there the  
4       approximate location where you first observed  
5       me?

6       A. It's not to scale. It's about 40 feet -- you  
7       would be about right here, walking this  
8       direction.

9       Q. Okay. And roughly the approximate place  
10      where when you finally got to me and stopped  
11      me?

12      A. About right here.

13      Q. I think you testified you had stopped your  
14      car and called to me?

15      A. Yes, sir.

16      Q. And you stated that I did not stop?

17      A. Yes, sir.

18      Q. And you called again. How far did I walk?  
19      Basically drawing the car and where I was  
20      when you stopped the car to call to me and  
21      how far I walked, just roughly. I know it's  
22      not exact. I just want to get an idea.

23      A. Car probably stopped about right here. And,  
24      like I said, it's not to scale. This is  
25      Genelda Avenue. You walked about another 15,

1 20 steps?

2 Q. Okay. And you stated I was traveling south,  
3 which would be toward the top of the map?

4 A. Yes.

5 Q. And you approached from your patrol car from  
6 the north, from behind me?

7 A. Yes, sir.

8 Q. Could you see clear my face before you called  
9 to me?

10 A. Only your profile as you looked toward these  
11 buildings.

12 Q. You stated earlier I was looking in the  
13 direction of houses?

14 A. Yes, sir.

15 Q. Were you able to observe me looking at any  
16 specific house?

17 A. I didn't make a mental note of it, no, sir.

18 THE COURT: Anything further?

19 MR. MCLAURINE: I -- No, sir.

20 THE COURT: All right, sir. Anything  
21 further, Mr. White?

22 MR. WHITE: No redirect at this time.

23 THE COURT: All right. Step down,  
24 Officer, go back to the witness  
25 stand. Anyone need a break? All

1 right. If you need a break, raise  
2 your hand. All right. Call your  
3 next witness.

4 MR. WHITE: City calls Lt. Matthews.

5 WILLIAM MATTHEWS

6 The witness, having first been duly  
7 sworn to speak the truth, the whole truth and  
8 nothing but the truth, testified as follows:

9 THE COURT: Take your seat there and  
10 speak directly into that  
11 microphone.

12 DIRECT EXAMINATION

13 BY MR. WHITE:

14 Q. State your name, please, sir.

15 A. William Matthews.

16 Q. How are you employed?

17 A. I'm a lieutenant with the City of Auburn  
18 Police Department.

19 Q. How long have you been employed with the City  
20 of Auburn as a police officer?

21 A. Since 1992.

22 Q. And how long have you been in law enforcement  
23 in general?

24 A. Fourteen years.

25 Q. And you are now a lieutenant; is that

1 correct?

2 A. That is correct.

3 Q. Back on November 27, 2004, what was your  
4 rank?

5 A. Sergeant.

6 Q. Let me direct your attention to that -- to  
7 the early morning hours of November 27 and  
8 ask, you did you have an occasion to be  
9 involved in this investigation regarding  
10 Mr. McLaurine?

11 A. I did.

12 Q. And how is it that you became aware of what  
13 was going on out there?

14 A. I was the shift supervisor that night and was  
15 called to the scene by Officer Bean.

16 Q. Officer Bean called you to the scene?

17 A. He did.

18 Q. Okay. And do you recall where you were when  
19 you first got the call?

20 A. I was near the intersection of West Magnolia  
21 and Donahue Drive.

22 Q. And did you respond immediately upon  
23 receiving the call?

24 A. I did.

25 Q. Okay. And were you in a marked patrol car?

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1 A. It's what we call a semi-marked patrol car.  
2 It's black and white, but it doesn't have a  
3 light on top.

4 Q. And were you in uniform that evening?

5 A. I was.

6 Q. And did you respond to that location where  
7 Mr. McLaurine was located?

8 A. I did.

9 Q. What, if anything, did you do upon arriving  
10 there at the scene?

11 A. I spoke with Officer Bean about the  
12 situation; you know, why he needed me there.  
13 And then after getting the information from  
14 Officer Bean, I spoke with Mr. McLaurine.

15 Q. Okay. What did you say to Mr. McLaurine?

16 A. I asked him basic questions; what was his  
17 name, where did he live. And then after  
18 getting no response or being told --

19 Q. Let me ask you this. When you asked him  
20 those questions, how did he respond to you?

21 A. He told me that he didn't think that he  
22 needed to provide that information.

23 Q. Didn't think he needed to provide that  
24 information?

25 A. That is correct.



1 Q. Okay. How many times did you go through that  
2 series of questions with Mr. McLaurine in an  
3 effort to gather that information?

4 A. I would say that I probably asked him  
5 somewhere around four or five times from the  
6 beginning, where I just asked him his name to  
7 the end where I was telling him that if he  
8 didn't provide it, that he was breaking the  
9 law and would subsequently be arrested. I  
10 gave him every opportunity to comply.

11 Q. And was there some conversation that y'all  
12 had where he acknowledged you as a police  
13 officer and acknowledged your authority to  
14 ask him those questions and he stated that he  
15 refused to answer those questions?

16 A. Yes, sir. I explained the law to him,  
17 explained that we had reason to contact him.  
18 I gave him the reason that we did contact  
19 him. I explained to him that it was his  
20 obligation to give us that basic identifying  
21 information if it was requested of him. And  
22 he would not.

23 Q. And you say you explained to him the reason  
24 that you did contact him. What did you tell  
25 him in that regard?

1 A. That we had received a call for service  
2 giving a description that fit his.

3 MR. MCCLAIR: Objection, hearsay.

4 THE COURT: Overruled.

5 Q. Go ahead. If you would give the entire  
6 description that you were given as part of  
7 dispatch?

8 A. Well, I wasn't actually dispatched to the  
9 call originally.

10 Q. Okay.

11 A. But I knew that he -- that Officer Bean had  
12 been dispatched to that area in reference to  
13 a suspicious subject and that Officer Bean  
14 had contacted a subject matching that  
15 description.

16 Q. And you explained to him that because of  
17 that, you had a right to ask him his name,  
18 his address, what he was doing?

19 A. I told him that all he had to do was provide  
20 his name and his address, and as long as he  
21 wasn't wanted on a warrant, wasn't a career  
22 burglar or a terrorist, he would be free to  
23 leave.

24 Q. And even after you told him that, he refused  
25 to give you the information?

1 A. That is correct.

2 Q. Okay. Was there some discussion about a  
3 recent United States Supreme Court decision?

4 A. There was.

5 Q. Who brought that up?

6 A. I did.

7 Q. What was said in regards to that?

8 A. When he told me that he didn't think we had  
9 the right to elicit that information from him  
10 I., explained that there had recently been a  
11 Supreme Court decision that affirmed that a  
12 police officer had the right to ask those  
13 questions, and that it was the duty of the  
14 person being stopped to answer. He said that  
15 he was aware of that but disagreed.

16 Q. He told you that he was aware of that  
17 decision but that he disagreed with the  
18 decision of the United States Supreme Court?

19 A. That is correct.

20 Q. And the name of that decision, the case that  
21 y'all were talking about, was Hiibel; is that  
22 correct?

23 A. That is correct.

24 Q. And that's the name of one of the litigants  
25 in that case was H-I-I-B-E-L?

1 A. Correct.

2 Q. And so Mr. McLaurine, when you approached  
3 him, he was familiar with Supreme Court case  
4 law on the very subject on which you were  
5 stopping him for; is that correct?

6 A. He said he was.

7 Q. Okay. He -- and he stated to you that he  
8 disagreed with the decision of the United  
9 States Supreme Court as to the Hiibel case?

10 A. He said that he disagreed with the  
11 interpretation.

12 Q. The interpretation?

13 A. Interpretation.

14 Q. All right. So what, if anything, did you do  
15 after Mr. McLaurine repeatedly refused to  
16 answer your questions?

17 A. After we had gone through that for several  
18 minutes, I called the shift commander, who  
19 was Lt. Howell, asked him to respond to the  
20 scene so that I could discuss a plan of  
21 action with him. I had already made up my  
22 mind that if he didn't comply, that we would  
23 place him under arrest, but I wanted to talk  
24 to the shift commander and see if he had any  
25 alternatives other than what I was thinking.

1 Q. And you didn't want to place him under  
2 arrest, did you?

3 A. Like I said, we gave him every opportunity to  
4 walk away from it.

5 Q. Okay. And what -- Lt. Howell, what was he --  
6 as far as rank goes, what was he in relation  
7 to you?

8 A. He's my shift supervisor.

9 Q. And was he the highest ranking officer on  
10 duty that night?

11 A. Yes.

12 Q. Okay. And so you called Lt. Howell?

13 A. I did.

14 Q. And did he come to the scene?

15 A. He did.

16 Q. And what, if anything, did he do when he  
17 arrived there at the scene?

18 A. Well, prior to his arrival -- when I called  
19 him, he was on the other side of town. So  
20 while he was on his way, I called him on the  
21 phone and explained the situation. He  
22 concurred with me but said that he would be  
23 there shortly, so we waited for his arrival.

24 Q. Now, what, if anything -- what if any  
25 conversation did you have with the defendant

1 immediately prior to beginning your wait for  
2 Lt. Howell? Do you remember there being a  
3 discussion about Mr. McLaurine's desire to  
4 leave?

5 A. Yes. Just prior to me walking away from him  
6 to call Lt. Howell, he said that he was going  
7 to leave. And I told him that he could not  
8 leave. And he said that he was going to  
9 leave unless he was being detained, and I  
10 told him to consider himself detained at that  
11 time.

12 Q. And what did he say after that? After you  
13 said consider yourself detained, what did he  
14 say?

15 A. I said, now are you going to stay here?  
16 And he said, no; unless you physically  
17 detain me, I'm going to walk away.

18 And so I placed my left hand on his  
19 right arm, and I said, consider yourself  
20 physically detained. And I instructed  
21 Officer Bean to keep him there until I  
22 returned.

23 Q. Okay. And you've seen the video in this  
24 case, have you not?

25 A. Yes, I have.

1 Q. And what you have just described occurred  
2 immediately prior to the video being  
3 activated by Officer Bean; is that correct?

4 A. That is correct.

5 Q. So that's why we see Officer Bean standing  
6 there side by side with Mr. McLaurine in  
7 front of the car is because you have  
8 instructed Officer Bean to make sure he  
9 doesn't leave?

10 A. That is correct.

11 Q. Okay. All right. So what happened -- what  
12 happened when Lt. Howell arrived at the  
13 scene?

14 A. Lt. Howell approached him, basically went  
15 through the same statement or conversation  
16 that he and I -- that Mr. McLaurine and I had  
17 had.

18 Q. Which was what? If you would, just to the  
19 best of your recollection, what did you hear  
20 Lt. Howell say to the defendant?

21 A. He basically told him that he had to give us  
22 that information and that if he didn't, then  
23 he would be arrested and taken to the county  
24 jail.

25 Q. Okay. And did he respond -- did the

1 defendant respond to Lt. Howell?

2 A. He told him that he understood that, but he  
3 did not feel like he had to give that  
4 information.

5 Q. Didn't feel like he had to give that  
6 information?

7 A. That is correct.

8 Q. And so he didn't -- ultimately did not  
9 provide that information?

10 A. That is correct.

11 Q. So what happened after that?

12 A. He was placed under arrest by Officer Bean.  
13 Shortly or immediately after arrest, we  
14 retrieved his wallet from his back pocket,  
15 located his identification, checked him for  
16 wants and warrants and transported him to the  
17 county jail.

18 Q. So after you arrested him, you did a pat-down  
19 search -- you are authorized by law to pat  
20 him down and retrieve any objects in his  
21 pockets, and you got his wallet out at that  
22 point after he was placed under arrest?

23 A. That is correct.

24 Q. And he had an identification card in his  
25 wallet?



1 A. He did. A Colorado identification card.

2 Q. And is that you we hear on the video calling  
3 in a McLaurine ID card?

4 A. That is correct.

5 Q. And that happened immediately after he was  
6 arrested and you retrieved his wallet?

7 A. Correct.

8 Q. Now, did you go with Officer Bean to the  
9 jail?

10 A. I did not.

11 Q. I believe that's all I have at this time.

12 THE COURT: All right. Cross-  
13 examination?

14 CROSS EXAMINATION

15 BY MR. MCLAURINE:

16 Q. After you have physically contacted me, did I  
17 disobey any direct command involving my  
18 physical body as to where to stand, what to  
19 do, how to position myself?

20 A. After I contacted you?

21 Q. Yes, sir.

22 A. Just the part where you and I discussed  
23 whether you were going to stay or leave.  
24 After you were told that, you were being  
25 detained.

1 Q. But after physically contacting me is what  
2 I'm asking.

3 A. Where I touched --

4 Q. Yes. Did I disobey any command given by a  
5 police officer in your presence --

6 A. Just --

7 Q. -- other than, again, focusing on my physical  
8 body?

9 A. No. I mean, you went where we told you to  
10 go.

11 Q. Could you explain the plus 1 on the use of  
12 force concept in police procedure?

13 MR. WHITE: Object to form as to  
14 relevance, Your Honor.

15 Q. The question becomes whether Officer Matthews  
16 had to use any exceptional means in order to  
17 convince me that I could not leave or whether  
18 it was part of normal police practice.

19 THE COURT: I believe he said he didn't  
20 have to.

21 Q. Okay. Did you observe me communicate with  
22 anyone except police officers in the -- from  
23 the moment you arrived until the moment I was  
24 handcuffed?

25 A. I did not.

1 Q. Did you give any evidence that I was legally  
2 required to present identification to you or  
3 any other police officer other than verbal  
4 commands or verbal statements about facts?  
5 Did you show me a broken lock or play a tape  
6 or do anything other than speak to me about  
7 having to present identification?

8 A. No.

9 Q. Are you allowed to lie to a suspect in order  
10 to obtain information?

11 THE COURT: What's the relevance of  
12 this? Is there any evidence of  
13 this?

14 MR. MCLAURINE: The relevance is that  
15 the only thing officers provided  
16 were their verbal statements which  
17 legally can be lies. The officer  
18 provided no writ, no evidence, or  
19 anything other than their own word  
20 to convince me that they had a  
21 reason to make me be required to  
22 present identification.

23 THE COURT: If you understand the  
24 question, you can answer.

25 MR. WHITE: I object for the Record,

1 Your Honor, for whatever that's  
2 worth.

3 THE COURT: Do you understand the  
4 question?

5 A. Would you repeat it, please?

6 Q. Did you offer anything except verbal  
7 statements of fact from police officers? Did  
8 you offer any physical evidence, anything  
9 over the radio, anything that you offered to  
10 me to demonstrate that you had a reasonable  
11 suspicion other than your own words or the  
12 words of police officers?

13 A. No. That's all that I gave you was our  
14 verbal conversation.

15 MR. MCLAURINE: Nothing further at this  
16 time, Your Honor.

17 THE COURT: Anything further?

18 MR. WHITE: Nothing further, Your  
19 Honor.

20 THE COURT: All right, sir. You can  
21 step down. Do you need to retain  
22 him or can he be released? You  
23 want to keep him here?

24 MR. WHITE: I would like for him to  
25 stick around.

1 THE COURT: All right.

2 THE WITNESS: I don't mind.

3 THE COURT: All right. You stick  
4 around.

5 THE COURT: All right. We will take  
6 about a 10-minute -- well about a  
7 15-minute break at this point. If  
8 you would, go back to the jury  
9 room, please.

10 (Jury left the  
11 courtroom, after which time  
12 there was a brief recess.)

13 THE COURT: All right. The jury is back  
14 in the box. The defendant,  
15 attorneys, parties all are  
16 present. Call your next witness.

17 MR. WHITE: City calls Lt. Howell.

18 THE COURT: Raise your right hand to be  
19 sworn.

20 KEITH HOWELL

21 The witness, having first been duly  
22 sworn to speak the truth, the whole truth and  
23 nothing but the truth, testified as follows:

24 THE COURT: Come around and have a seat  
25 and talk directly into that

1 microphone.

2 DIRECT EXAMINATION

3 BY MR. WHITE:

4 Q. State your name, please, sir.

5 A. It's Lt. Keith Howell.

6 Q. How are you employed?

7 A. I'm the shift commander on the 18 -- night  
8 shift at that particular time.

9 Q. Auburn Police Department?

10 A. Auburn Police Department, yes, sir.

11 Q. How long have you been employed in law  
12 enforcement?

13 A. 24 years and 4 months.

14 Q. And how -- at the time this incident  
15 occurred, how long had you been lieutenant  
16 shift commander?

17 A. When I took the shift.

18 Q. Well, how long have you been lieutenant?

19 A. Eight years.

20 Q. Okay. Let me direct your attention to that  
21 evening of November 27, 2004, early morning  
22 hours. Do you recall being called to the  
23 location where these other officers had  
24 detained Mr. McLaurine?

25 A. Yes, I do.

1 Q. And how was it that you were called to  
2 respond to that location?

3 A. My sergeant at the time, Matthews, called me  
4 on my Southern Linc two-way radio, advised me  
5 that they was out on a subject that was  
6 refusing to give them his name and address.

7 Q. All right. And did you respond to that  
8 location?

9 A. Yes, sir, I did.

10 Q. Okay. And on your way -- Where were you when  
11 Sgt. Matthews called you?

12 A. When I was coming back from the hospital on a  
13 previous call and I was on Opelika Road.

14 Q. So it took you a little while to get there?

15 A. About three or four minutes, yes, sir.

16 Q. And during the time that you were en route,  
17 were you talking with Lt. Matthews --  
18 Sgt. Matthews about the situation there?

19 A. Yes, sir, I was.

20 Q. And did he explain to you the situation where  
21 Mr. McLaurine was being asked to provide his  
22 name and information and reason for him being  
23 in that area, and he was refusing to give  
24 that information?

25 A. Yes, sir.

1 Q. Okay. And did he also provide to you -- did  
2 Sgt. Matthews also provide to you the reason  
3 why they had Mr. McLaurine detained?

4 A. Yes, sir. I actually heard the reason on  
5 call get put out about the suspicious male  
6 carrying something in his hands and looking  
7 at -- at houses. So I actually heard the  
8 original call.

9 Q. So you were familiar with their purpose for  
10 being out there?

11 A. Yes, sir.

12 Q. And you responded to the location. What  
13 did -- What did you first do when you arrived  
14 there at the location?

15 A. When I got out of my vehicle, I went to the  
16 front of the car where Officer Bean and  
17 Mr. McLaurine was at and Sgt. Matthews was  
18 at.

19 Q. Let me stop you right there. What kind of  
20 vehicle were you driving that night?

21 A. I was a unmarked Crown Vic, light green in  
22 color.

23 Q. And how were you dressed that evening?

24 A. In a police uniform just like Lt. Matthews?

25 Q. So not like you're dressed today?



1 A. No, sir.

2 Q. And so approached Mr. McLaurine and Officer  
3 Bean; is that correct?

4 A. Yes.

5 Q. Okay. And what, if anything, did you say to  
6 Mr. McLaurine at that time?

7 A. I asked him was he familiar with the law  
8 about compelling you to give your name and  
9 your address to a law enforcement officer.

10 He said, yes, I am familiar with that; I  
11 don't agree with that law.

12 I said, well, are you going to give your  
13 name to us?

14 And he said no.

15 And I said, you know you will be  
16 arrested if you do not give us your name.

17 He goes, well do whatever you want to  
18 do.

19 And at that particular time I told him  
20 he was under arrest.

21 MR. WHITE: Okay. That's all I have.

22 THE COURT: All right. Cross-  
23 examination?

24 CROSS EXAMINATION

25 BY MR. MCLAURINE:

1 Q. Are you sure that I said I disagree with the  
2 law or I disagree with your interpretation of  
3 it?

4 A. You advised that you disagreed with the  
5 interpretation of the law.

6 Q. Did you ever personally explain to me what  
7 the specific reasons why I had to present  
8 identification were?

9 A. No, because --

10 MR. MCLAURINE: No further questions.

11 THE COURT: No other questions.

12 Anything on redirect?

13 MR. WHITE: No redirect, Your Honor.

14 THE COURT: All right. Can this  
15 witness be excused or you want to  
16 keep him around?

17 MR. WHITE: He can be excused, Your  
18 Honor.

19 THE COURT: All right. You can step  
20 down. You are excused.

21 THE COURT: Next witness?

22 MR. WHITE: May I have a moment to  
23 confer?

24 City rests, Your Honor.

25 THE COURT: All right. Approach. You

1 want to make any kind of motion?

2 MR. MCLAURINE: Yes, sir. I would like  
3 to make a motion for an  
4 acquittal. We can do that out of  
5 the presence of the jury.

6 THE COURT: All right. I'm going to  
7 let the jury go back in the jury  
8 room for just a few minutes if you  
9 would, and we will take something  
10 up out here, and we will call you  
11 right back. It will just be a few  
12 minutes.

13 (Jury left the  
14 courtroom)

15 THE COURT: All right. The jury is  
16 out. The City has rested.  
17 Mr. McLaurine indicates he wants  
18 to make a motion.

19 MR. MCLAURINE: Yes, sir. I would like  
20 to make a motion for acquittal.  
21 And as a grounds for a motion, I  
22 would like to point out that the  
23 state has raised 15-5-30 as the  
24 authorizing statute under which a  
25 police officer is recognized or is

1 to be recognized as a government  
2 official. And the state reads all  
3 the way down to describing him,  
4 which includes Officer Bean as  
5 someone who is eligible to be  
6 recognized may stop any person in  
7 a public place whom he reasonably  
8 suspects is committing, has  
9 committed, or is about to commit a  
10 felony or other public offense,  
11 and may demand of him his name and  
12 address and his actions.

13 Officer Bean, the arresting  
14 officer, testified that he knew of  
15 no crime that was committed  
16 involving me specifically; he knew  
17 of no crime that was being  
18 committed at that moment involving  
19 me; and that he knew of no future  
20 crime being committed in order to  
21 justify this stop. Furthermore,  
22 he has only indicated that the  
23 only specific reason he stopped me  
24 was because I was in what amounts  
25 to a relatively high crime area at

1 a late night hour.

2 Courts have routinely ruled  
3 that the location is not enough to  
4 justify a specific reason as  
5 suspicious, that there must be  
6 something such as stealthy  
7 movements, attempt to conceal  
8 one's self, and that that at night  
9 or in a high crime area the  
10 threshold of what that is is  
11 dramatically lowered, but it still  
12 must require a specific -- a  
13 specific objective criteria to  
14 finding the particular individual  
15 that the police are dealing with  
16 is the person who is reasonably  
17 suspected of being involved or in  
18 that crime that has been  
19 committed, being committed, or  
20 about to be committed.

21 In addition to that, the  
22 police never raised or introduced  
23 the phone call that they alluded  
24 to and it is not in the evidence  
25 as a matter of record. And this

1 demonstrates that the police --  
2 the police officer, Officer Bean,  
3 who made the contact had no legal  
4 authority to do what he did.

5 Also within the statute,  
6 Officer Bean testified that in  
7 part A, the only section that  
8 describes their criteria of what  
9 constitutes a crime under the  
10 statute charged --

11 THE COURT: Which statute are you --

12 MR. MCLAURINE: 13-10-2-A, the  
13 actual -- the criminal statute,  
14 requires one of four things;  
15 intimidation, physical force or  
16 physical force/interference or any  
17 independently unlawful act. I  
18 construe the independently  
19 unlawful act to mean anything not  
20 contained in 13A-10-2 meaning that  
21 it must be criminal outside of  
22 this statute is what that phrasing  
23 means. And also that the act that  
24 he identified, there was the not  
25 giving identification. The

1 authorizing statute is not a  
2 criminal act independent of this  
3 statute; therefore, it does not  
4 qualify as the independently  
5 unlawful act as he claimed.

6 In addition, he indicated that  
7 a statement similar to arrest me  
8 or let me go amounted to  
9 intimidation. I don't believe  
10 that qualifies. I believe  
11 intimidation requires threat of  
12 physical or monetary damages along  
13 those lines.

14 In addition, as I pointed out,  
15 number 2, Section 2, the officer  
16 was not prevented from acquiring  
17 his goals. It did take longer and  
18 under his definition of what  
19 happened, it must be only section  
20 1 that is considered as a criminal  
21 action. In addition, both -- the  
22 word intentionally appears in both  
23 actions. All of the two officers  
24 who testified first demonstrated  
25 that I indicated that I did not

1 believe that they had reasonably  
2 convinced me that they had a legal  
3 authority to be doing what they  
4 were doing.

5 In addition, the only  
6 information they provided that  
7 would be even considered as  
8 telling me that I was a suspect  
9 and basically required to perform  
10 were their own verbal admissions.  
11 Since the police are allowed to  
12 lie, I'm allowed to disbelieve any  
13 statement they make. They  
14 provided no independent evidence  
15 to demonstrate or try and convince  
16 me that they actually did have  
17 reasonable suspicion and the  
18 statements they were making were  
19 true. I believe that concludes  
20 what I have to present, sir.

21 THE COURT: All right. Thank you,  
22 sir. Mr. White, your response?

23 MR. WHITE: Yes, sir. First of all, I  
24 would restate what I stated at the  
25 beginning of this case, which is



1 that this court has already  
2 decided the issue of reasonable  
3 suspicion in this case. You've  
4 entered an order dated March 28,  
5 2006, and I'll just read from your  
6 order. The Court denies each and  
7 every motion and finds that there  
8 was probable cause for his  
9 arrest. The Court in making its  
10 determination of a finding that  
11 probable cause existed at the time  
12 of the arrest relies on Hiibel,  
13 and then you give the cite for  
14 Hiibel.

15 Then you go on and state, the  
16 Court further finds that pursuant  
17 to the stop and identify statute,  
18 section 15-5-30 of the code, and  
19 the telephone call from the  
20 unidentified caller, did officers  
21 have probable cause to confront  
22 the defendant and to ask him for  
23 his name, address, and what he was  
24 doing in the area at this time of  
25 night.

1 The defendant's failure to  
2 provide the information pursuant  
3 to this section of the code gave  
4 the officers sufficient cause to  
5 arrest the defendant in violation  
6 of 13A-10-2. Now, I would  
7 reiterate to the court that the  
8 issue of reasonable suspicion in  
9 this case is a matter of law for  
10 this court to decide. It is not a  
11 matter for the jury to decide.  
12 And, in fact, I would ask you to  
13 instruct the jury either prior to  
14 closing arguments or in your jury  
15 charge that you, as the court,  
16 have already determined that you  
17 have found that reasonable  
18 suspicion exists. The only issue  
19 that they are here to determine is  
20 whether Mr. McLaurine is in  
21 violation of the law, not whether  
22 or not reasonable suspicion  
23 existed for these officers to  
24 approach him. So that's my  
25 argument on a legal grounds.

1 Now, you heard the officer's  
2 testimony that he received a call  
3 from dispatch about a mysterious  
4 man walking through the  
5 neighborhood stopping and looking,  
6 with a clothing description. And  
7 his testimony that this was during  
8 the Thanksgiving holidays, a time  
9 where there was a high crime area  
10 where lots of burglaries and  
11 thefts took place. He clearly had  
12 reasonable suspicion, based upon  
13 that information, to approach  
14 Mr. McLaurine and ask him basic  
15 identifying information to  
16 determine if a crime was afoot.  
17 That's what we are here about.  
18 And, clearly, he had reasonable  
19 suspicion to do that. In fact  
20 this court has already decided  
21 that. So that's my response to  
22 reasonable suspicion.

23 As to the obstructing  
24 government operations, a person  
25 commits a crime of obstructing

1 government operations if, by means  
2 of intimidation, physical force or  
3 an interference or by any other  
4 independently unlawful act he  
5 intentionally obstructs, impairs,  
6 or hinders the administration of  
7 law.

8 The fact that he did not give  
9 his name and identifying  
10 information when he was required  
11 to do so, there's a statute on  
12 point that says he's required to  
13 do so. His refusal to give that  
14 basic identifying information  
15 interfered with a government  
16 operation; i.e., these officers'  
17 attempt to investigate a possible  
18 crime in the area. His refusal to  
19 give that information was an  
20 obstruction of their function and,  
21 therefore, it qualifies as  
22 obstructing government  
23 operations. That's our argument.  
24 THE COURT: All right, sir. Any  
25 response?

1 MR. MCLAURINE: Yes, sir. The previous  
2 motion was based on several pieces  
3 of information that were never  
4 introduced, and I believe at the  
5 beginning of this trial you said  
6 you would rule based on what was  
7 introduced. The prosecution never  
8 entered the phone call into  
9 evidence. The police officer  
10 never qualified that I was  
11 stopping, only that I was moving.  
12 He never introduced any facts  
13 along those lines. And the only  
14 thing we have here are  
15 nonobjective hunches by the police  
16 which are specifically precluded  
17 from being considered as part of  
18 reasonable suspicion.

19 And while I agree is that you  
20 have made a ruling, I believe you  
21 also made a ruling that you would  
22 re-evaluate the situation on what  
23 was presented, and I do not  
24 believe that what is presented  
25 meets the criteria necessarily to

1 establish the reasonable suspicion  
2 to empower the officers to be  
3 authorized to do what he did.

4 THE COURT: All right. I'm going to  
5 deny the motion to acquit. I'm  
6 going to look at your jury  
7 charges. I'm inclined to let the  
8 probable cause go to the jury, but  
9 we will -- if you want to prepare  
10 a charge specifically on that,  
11 I'll take a look at it. Anything  
12 further? I'm going to call the  
13 jury back for you to put on your  
14 case. Can you motion to the  
15 bailiff there?

16 (Jury entered the  
17 courtroom)

18 THE COURT: All right. The jury is back  
19 in the box and the parties and  
20 attorneys are present. The City  
21 of Auburn last rested. At this  
22 time, the defense can put on its  
23 case. Mr. McLaurine?

24 MR. MCLAURINE: I'll call myself.

25 THE COURT: All right.

1 WILLIAM S. MCLAURINE

2 The witness, having first been duly  
3 sworn to speak the truth, the whole truth and  
4 nothing but the truth, testified as follows:

5 EXAMINATION

6 BY MR. MCLAURINE:

7 Q. My name is William McLaurine. On November  
8 27, 2004, roughly about 12:30, I decided I  
9 wanted to go to Subway. I walked from my  
10 apartment at 549 East Glenn, which is about  
11 halfway between the Kroger shopping center  
12 and the Spectrum. Basically, it's about  
13 halfway in between. I walked from there. I  
14 was on my way to -- it was a cold night. I  
15 was on my way to get some food at Spectrum,  
16 and I realized that it was too cold to walk  
17 home while I was eating.

18 The reason I was walking is because I'm  
19 epileptic. I have a medically revoked  
20 driver's license and I can't drive. I got to  
21 the Spectrum, realized it was too cold, and I  
22 decided to proceed from the Spectrum to the  
23 Subway, because the Subway was normally open  
24 at that time of night, and they could -- I  
25 could sit down and get out of the cold.

1 I chose the path of walking from --  
2 walking down Glenn to Toomer because I  
3 routinely walk there because I have a friend  
4 who lives there. One of the interesting  
5 things about this pathway here is that it  
6 circumvents the hill at Toomer's Corner. So  
7 this particular pathway offers the least  
8 resistance to walk, and it's my normal path  
9 that I walk.

10 I was contacted by Officer Bean when I  
11 was approximately in this location right here  
12 next to -- when his car pulled up to me. But  
13 this wasn't the first time I have been  
14 stopped by the police. This was the fourth  
15 time I have been stopped by the police for  
16 walking at night in the City of Auburn. I  
17 have been stopped in other cities. Again, I  
18 walk at night because I don't drive. The  
19 first time I was stopped was --

20 MR. WHITE: I'll object to previous  
21 occasions where you were stopped  
22 by the police. It has no  
23 relevance to this incident.

24 THE COURT: What's the relevance of  
25 going into the entire --



1 MR. MCLAURINE: The relevance goes to  
2 show my understanding of the law,  
3 that I recognize that police  
4 officers under certain conditions  
5 have a right to demand the  
6 identification -- photo  
7 identification of a person, but  
8 not under all circumstances. And  
9 what I'm trying to demonstrate  
10 here is that I have been harassed  
11 by the police continually, and I  
12 have made several efforts to  
13 contact them about this and  
14 demonstrate that I have a  
15 knowledge of the law about what is  
16 and is not required of me. And  
17 that on the night when the police  
18 stopped me and arrested me, they  
19 did not fulfill the requirements  
20 as I understand them. Because of  
21 that, I did not believe they had a  
22 legal reason to stop me and, as  
23 such, I could not form an intent  
24 to obstruct government operations  
25 if I did not believe the officer

1 was acting as a legitimate  
2 government official.

3 THE COURT: All right. Well, I'm going  
4 to sustain the objection. You've  
5 made your point as to the  
6 relevance of the others, that you  
7 acquired some information from  
8 those prior stops that led you to  
9 believe what you did on this night  
10 was correct; is that right?

11 MR. MCLAURINE: Yes, sir. And also  
12 that I have been harassed by the  
13 police in the past and on multiple  
14 occasions concerning this matter.

15 THE COURT: All right. Well, I'm not  
16 going to let you go into all those  
17 prior occasions. Go to the night  
18 in question.

19 MR. MCLAURINE: All right.

20 Q. Officer Bean pulled up, and I saw a car out  
21 of my peripheral vision. Gentlemen, when I  
22 walk -- if you're familiar with a runner's  
23 high, you get it when you walk, too. It's  
24 not as severe, but it's a -- it's kind of a  
25 zone you're in. And generally, as I recall

1 the situation, I was deep in thought about  
2 the cold and thinking. I was looking at the  
3 ground in front of me as I was walking  
4 forward.

5 Officer Bean pulled up and, out of the  
6 corner of my eye, I saw the car. And I  
7 realized, okay, not again. Officer Bean  
8 called out, and I didn't know what I was  
9 going to do. I had been stopped before  
10 and --

11 MR. MCLAURINE: May I introduce what I  
12 had done before to demonstrate why  
13 I would make the decision I made  
14 this time?

15 THE COURT: I don't see how you can tie  
16 that up. You've indicated you had  
17 prior experience that led you to  
18 do what you did this night.

19 MR. MCLAURINE: All right.

20 Q. So I had to think, what am I going to do? I  
21 had made attempts to rectify the situation.  
22 I had to decide how I was going to proceed  
23 with this officer. Officer Bean called out a  
24 second time and I decided, all right, he's  
25 serious, so I turned to him. And he asked

1 me, I need to see some identification.  
2 Contrary to Officer Bean's statement, my  
3 first words were not, I'm not going to give  
4 that to you. They were, why do you want to  
5 know?

6 Because I realize, under certain  
7 circumstances, the police can require you to  
8 provide identification. But that has to be  
9 explained. It has to be explained. You  
10 know, you have to tell me why. You just  
11 can't walk up and say, give me ID.

12 Officer Bean's response was, we got a  
13 call about somebody carrying something.

14 At that point, I told him I don't find  
15 that sufficient reason to provide you with my  
16 identification. From that point, we  
17 basically went through a series of questions  
18 of him asking me things. And some of them I  
19 may have answered, but they basically were  
20 information that -- that I -- I don't even  
21 remember what they were. They were minor,  
22 trivial things like -- I don't even remember  
23 what the questions were. I may have answered  
24 some of his questions.

25 At some point, we get into a debate and

1 the police -- at some point, Officer Matthews  
2 showed up. And the police went on and on  
3 about how, when you are contacted by a police  
4 officer, you are required -- in their  
5 official capacity you are required to present  
6 identification to the police officer. And I  
7 disagreed with this.

8 I disagreed. I believe that reasonable  
9 suspicion was necessary and I deserved an  
10 explanation of why. At some point, they  
11 started repeating the questions over and  
12 over, same question. What's your name? Why  
13 are you here? We were there several  
14 minutes.

15 And I finally got a little upset. And I  
16 said, all right, look, unless you're going to  
17 physically detain me, I'm going to start  
18 walking down the road in that direction. And  
19 I pointd with both of my fingers. At this  
20 time, I am facing Officer Bean, who was in  
21 the street right about here, and I'm looking  
22 in that direction. So I was pointing in the  
23 direction that I was going to move.

24 At this point, Officer Bean and  
25 Sgt. Matthews had never indicated that I was

1 not free to leave. When I said this, both of  
2 them got a wide-eyed look on their face. I  
3 waited a moment -- not a long moment, but a  
4 moment. Neither one of them said anything.  
5 I took a step.

6 At this point, Officer Bean and  
7 Sgt. Matthews each grabbed one of my arms.  
8 One of the police officers put a soft-lock on  
9 my hand, but since I offered no resistance,  
10 there was no real pressure applied. At this  
11 point, the officers asked me to put my hands  
12 on my head. They then began to pat me down,  
13 and I recognized they had a right to do that  
14 under the Terry stop rules to determine that  
15 they were safe.

16 But I got a little excited and I did  
17 raise my voice. And I shouted, I refuse any  
18 search. It was a reflex, just to make sure  
19 that, you know, I was following what I had  
20 studied and what I knew I had to do to  
21 preserve my rights.

22 The next thing that happened was at some  
23 point during that investigation, Officer  
24 Matthews asked Officer Bean if Sergeant  
25 Bean -- Officer Matthews asked

1 Sgt. Matthews -- Officer Bean asked  
2 Sgt. Matthews if he was recording this, and  
3 he adjusted something on his microphone.

4 I was led in front of the police car and  
5 then they began asking me questions. The  
6 section of tape that we observed, which has  
7 no audio is the section -- is the time at  
8 which Officer Bean asked me questions such  
9 as, is it because I'm black? What nation do  
10 you work for? Is it because you work for the  
11 Confederate government, because I know some  
12 guys who do?

13 Now, the only time in which I was  
14 actually afraid was when that statement was  
15 made. Officer Bean was surrounded by several  
16 of the officers who were white, and it was at  
17 that moment that I really was afraid. The --  
18 At some point, Sgt. Matthews asked me if I  
19 was familiar with the Hiibel decision at  
20 which point I said, yes. And I said, you may  
21 want to look into the details of that case  
22 before you make a decision. And it was at  
23 one of the points where I looked back over at  
24 him near the end of the tape right before the  
25 handcuffs were placed on me.

1           The reason I did that is because I was  
2           aware of the Hiibel decision. I had spoken  
3           to the Chief of Police about it, and I knew  
4           that the details of the case were not the way  
5           the police were presenting them and that they  
6           did not apply to my situation. The other  
7           reason I mentioned this is because if a  
8           police officer seizes you and reasonable  
9           suspicion is not met --

10           MR. WHITE: Objection, Your Honor.

11                     He's trying to state law from the  
12                     bench. I submit it's inaccurate.

13           MR. MCLAURINE: I will withdraw the  
14                     statement.

15           THE COURT: Sustained.

16           Q.    The -- at that point, I was handcuffed. I  
17                   was taken to the back of the car. They  
18                   removed my wallet. I remember hearing them  
19                   call my name. I then was placed in the back  
20                   of the car and we went to the police station,  
21                   at which point Officer Bean made the  
22                   statement that if you don't tell me what I  
23                   want to know now, I'm going to lock you up in  
24                   the cell and I can leave you because,  
25                   basically, you're a John Doe and I don't have



1 to release you, I don't have to do anything.

2 At this point is when I asked him, am I  
3 being charged? Am I being charged with a  
4 crime? And, at this point, he said, yes, you  
5 are being officially charged with a crime.  
6 One of the reasons I asked this question is  
7 because I cannot remember being Mirandized by  
8 the officer. I still had no formal trapping  
9 other than basically being handcuffed to  
10 understand that I was truly arrested.

11 At that point, when I realized that the  
12 officer had done that, I complied with  
13 everything he wanted to do. In addition,  
14 after the moment when I tried to leave, when  
15 the police asked me to do anything physical,  
16 from that moment on, I complied in any way,  
17 shape, or form that they wanted me to do.

18 At that time, I still believed that I  
19 had a right not to have to answer their  
20 questions as they presented them. The -- and  
21 that's basically my telling of what happened  
22 that night.

23 THE COURT: All right. Cross-  
24 examination?

25 MR. WHITE: Yes, sir.

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## CROSS EXAMINATION

1  
2 BY MR. WHITE:

3 Q. Mr. McLaurine, you admit, do you not, that  
4 you never provided any of these officers with  
5 your name, your address, or any reason for  
6 being in that area prior to you being placed  
7 under arrest?

8 A. Yes, sir.

9 Q. Okay. And they asked you repeatedly, did  
10 they not, please provide us with your name,  
11 your address -- really, they just wanted your  
12 name. They asked you that repeatedly, did  
13 they not?

14 A. I don't believe that's true, sir. I believe  
15 they asked me for all three of those  
16 criteria.

17 Q. Okay. So they asked you for all three of  
18 those criteria repeatedly?

19 A. Yes, sir.

20 Q. And you, in turn, repeatedly refused to give  
21 them that information; is that correct?

22 A. Yes, sir.

23 Q. And Officer Bean, when he arrived on the  
24 scene, he told you that they had -- or they  
25 have received a suspicious call of an

1 individual walking in that area -- a call of  
2 a suspicious individual walking in that area;  
3 is that correct?

4 A. One moment, sir.

5 MR. MCLAURINE: I'm going to object to  
6 that, Your Honor, as the attorney  
7 on the grounds that that is  
8 evidence that has not been  
9 introduced yet.

10 THE COURT: It's overruled. Go ahead  
11 and answer the question.

12 A. Officer Bean indicated that somebody was  
13 looking at houses, I believe at some point  
14 well into the thing. He also indicated  
15 something about crimes in the area without  
16 alluding to any specific one. But I don't  
17 recall anything about a murder that he  
18 testified to earlier.

19 Q. Okay. But it's -- I believe you just stated  
20 it's your position in this case that the  
21 officers, in conducting their investigation,  
22 had to convince you that they had reasonable  
23 suspicion to ask you questions. Is that your  
24 position?

25 A. I believe that is supported in law.

1 Q. That's your position, is that if I'm William  
2 McLaurine and I'm walking down the street and  
3 the police officer doesn't satisfy me that  
4 he's got reasonable suspicion to ask me  
5 questions, then I'm not answering any of this  
6 guy's questions. Is that your position?

7 A. I believe the --

8 Q. I'm asking you if that is your personal  
9 position. I'm not asking you to cite any  
10 case law to me.

11 A. If the police don't provide me with reason  
12 why I have to provide it, then, yes, sir. I  
13 believe --

14 Q. You think that's your right, to be convinced  
15 by the police officer as to what they are  
16 telling you you need to do?

17 A. Yes, sir.

18 Q. Okay. Sgt. Matthews arrives on the scene.  
19 Lavarro asks you several times for your  
20 identifying information. Sgt. Matthews also  
21 asks you for your identifying information.  
22 You refuse Sgt. Matthews and then Lt. Howell,  
23 he also comes there and he asks you for the  
24 same information and you refuse him as well.

25 A. Yes, sir.

1 Q. So there's no dispute that all three of these  
2 men -- these officers of the law asked you  
3 for basic identifying information and you  
4 refused all three of them?

5 A. Yes, sir.

6 Q. Okay. And they were all -- Lt. Howell is  
7 dressed in a suit and tie, but they were all  
8 in patrol uniforms when they came out there;  
9 is that correct?

10 A. Yes, sir. Officer Lt. Howell showed up at  
11 the end and asked me the questions once. Not  
12 repeatedly, but yes.

13 Q. Okay. And they told you, did they not,  
14 listen, if you'll just tell us your name,  
15 what you're doing out here, if you're not --  
16 I think they said if you're not a career  
17 burglar or a terrorist, we're going to let  
18 you go. Didn't they tell you that?

19 A. Yes, sir.

20 Q. And you still refused them?

21 A. Yes, sir.

22 Q. You refused them because you wanted to be  
23 arrested; isn't that right?

24 A. Did I want to be arrested?

25 Q. You wanted to be arrested; isn't that

1 correct?

2 A. I don't know that I wanted to be arrested,  
3 but I did believe it was the last option  
4 available to me in order to maintain my civil  
5 rights.

6 Q. And you understood -- Well, let me ask you  
7 this. You knew you weren't really wanted for  
8 any crimes, did you not?

9 A. I am not one hundred percent certain of that.

10 Q. Okay. So was there some concern in your mind  
11 that if you gave them some identifying  
12 information, you might have been -- been  
13 found to be wanted for something and placed  
14 under arrest?

15 A. I'm not sure of the actual nature of the  
16 law. There was an issue with my bank and  
17 Walgreen -- an account that had been closed,  
18 that I had closed, that I was being pursued  
19 by a creditor for something, and I didn't  
20 know if that was -- I had been served --  
21 tried to be served with a notice or something  
22 and, at that time, I wasn't sure whether that  
23 was a warrant or what. Nothing has ever come  
24 of it. I've never heard from that issue but,  
25 at the time, I didn't know what the situation

1 was. So when the officer asked me, you know,  
2 do you have any warrants out, I honestly told  
3 him I didn't know.

4 Q. Well, you knew, did you not, that if you  
5 provided these officers with your name, your  
6 information, they would likely send you on  
7 your way?

8 A. After a 20-minute delay, yes, sir.

9 Q. After a 20-minute delay caused by your own  
10 refusal to give them the information?

11 A. That depends on whether you believe that  
12 their contact was legal.

13 Q. Okay. And so you chose to be arrested.  
14 Would that be a fair way to say it? You  
15 chose to stand by what you believe to be some  
16 kind of right that you allegedly had and you  
17 chose to be arrested other than give up your  
18 name, what you were doing out there, and your  
19 address?

20 A. Let me make sure I understand the question.  
21 I chose to believe that I had a fourth  
22 amendment right that protected me from being  
23 harassed and detained.

24 Q. And that was based upon your own personal  
25 beliefs because you've been harassed by the

1 police before and you've done research where  
2 in you believe, based upon your own personal  
3 research, that these officers didn't have a  
4 right to be doing what they were doing out  
5 there that night; is that correct?

6 A. That's right.

7 Q. Okay. So you chose to be arrested?

8 A. No, sir. I did not say that.

9 Q. Well, you knew if you just provided them with  
10 the name and your basic information you  
11 weren't going to be arrested, didn't you?

12 A. I knew that they would let me go. The  
13 situation is it would be this time, it would  
14 also be the fact that I had complained about  
15 this before to the Chief of Police and  
16 nothing had come of it and, at this point, I  
17 basically had to continually subject myself  
18 to continual harassment or do something that  
19 would retire them to break the law in order  
20 for me to basically stop them from doing what  
21 they are doing.

22 Q. So you wanted to require them to put  
23 themselves in a situation to break the law  
24 for you to be able to do something about  
25 this. Is that what you just said?



1 A. No, sir. What I said was that was one of my  
2 options. And the situation here was they  
3 they could have let me go anyway.

4 Q. Okay. So it's your position that these  
5 officers have broken the law by demanding of  
6 you basic identifying information, your name,  
7 your address, what you were doing out there  
8 that evening. By doing that, these officers  
9 broke the law. Isn't that your position?

10 A. In addition to the racial discrimination I  
11 suffered at the hands of Lavarro Bean.

12 Q. So the answer to my first question is yes?

13 A. Yes.

14 Q. And then you say, in addition, you were  
15 racially -- tell me about that again.

16 Racially discriminated against?

17 A. Yes, sir. Intimidation was used.  
18 Intimidation, I believe, is legal for the  
19 police to use, but not when it is in the  
20 context of racial discrimination.

21 Q. And he discriminated against you by asking  
22 you, hey, is the reason you're not talking to  
23 me because I'm black?

24 A. Yes, sir.

25 Q. That's discrimination in your mind?

1 A. Yes, sir. He testified that the only  
2 reason -- basically, he said I gave him no  
3 reason, other than my basic physical  
4 appearance, which indicates that he made a  
5 decision based on my raise to ask that  
6 question.

7 Q. Okay. And so he somehow discriminated  
8 against you by doing that and, therefore,  
9 that's illegal conduct; is that correct?

10 A. Part of the illegal conduct, yes, sir.

11 Q. Isn't there some more illegal conduct that I  
12 don't know about?

13 A. The -- in this particular case by the  
14 officers, none that I can comment on at this  
15 time.

16 Q. Is there something that you're going to  
17 comment on later?

18 A. I have no facts to demonstrate that I know  
19 the police broke the law in any other ways  
20 than what I have just described, but I have  
21 no facts to indicate that some of their  
22 actions were not illegal. At this point, I  
23 want to put this behind me. I want to put  
24 this trial behind me so that I can deal with  
25 that situation. I don't intend to allow

1 these gentlemen to continue to harass me.

2 But, more importantly, I believe they  
3 are violating due process as a matter of  
4 policy in the department. And, as such, they  
5 are endangering the criminal justice system  
6 for other individuals who may actually be  
7 committing crimes.

8 Q. Okay. And that's why you wanted to be  
9 arrested, so you could come here today and  
10 make this argument to this jury, and it's  
11 also why you wanted to be arrested, so that  
12 you could file a claim against the city  
13 asking the City to pay you \$250 million for  
14 this officer's illegal conduct?

15 A. Sir, I believe you said earlier that all plea  
16 agreements, negotiations involved and --

17 MR. WHITE: Your Honor, I object. This  
18 is not a plea agreement. This is  
19 a notice of a claim he filed with  
20 the City that goes to show his  
21 bias or prejudice in his testimony  
22 here today. This is not the plea  
23 agreement.

24 MR. MCLAURINE: Okay. I thought this  
25 was a different issue. Okay.

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25

Sorry about that.

THE COURT: All right. Answer the question.

Q. You filed a notice of claim with the City on May 26, 2005. Is that your signature?

A. Yes, sir, it is.

Q. And in your closing paragraph, you asked for \$250 million; is that correct?

A. I said the damages were estimated at \$250 million.

Q. Oh, that's right. And it said it could grow as this situation progresses and more information is made available. So you may be entitled to more than \$250 million?

A. Okay. Yes, sir.

MR. WHITE: That's all I have.

MR. MCLAURINE: I would like to answer that question about --

MR. WHITE: I'm sorry. I didn't ask you another question.

MR. MCLAURINE: I'm sorry.

THE COURT: All right. Do you have any redirect?

MR. MCLAURINE: Yes, sir.

THE COURT: All right.

## REDIRECT EXAMINATION

BY MR. MCLAURINE:

Q. I would like to answer the question about the \$250 million. I became a licensed professional engineer in the state of California in 2004. I am cross-trained in architecture and I have two degrees, one in civil engineering and one in mechanical engineering. My professional experience is in residential home design and apartment complexes. I am licensed in the state of California to sell architectural plans. Those plans sell at approximately \$300,000 a use. I can personally process, after a developmental stage, one plan a month for modifications. That amounts to \$300,000 a month off of my personal work, not including the fact that I am cross-trained basically to be a professional and licensed to operate in all the fields of an architectural firm. I am a one-man architectural firm.

My particular problem is that I'm epileptic. It's difficult for me to drive and get around. At this point, all of this notice was a notice to preserve my rights to

1 sue, because I was arrested in 2004. Under  
2 Alabama law, if I do not notify the City of  
3 Auburn within six months of any event that  
4 occurs, I am not eligible to sue them and  
5 recover damages from the City. All right.  
6 That's what I was doing.

7 I have filed more than one of those  
8 notices. Every six months, I have filed  
9 notices about different acts that the police,  
10 the prosecution, and other individuals in  
11 civic government have committed against me as  
12 they continue to delay this.

13 I was arrested in 2004. The complaint  
14 that was filed against me was filed in May.  
15 As I understand the procedural regulations,  
16 this court is required to process all -- one  
17 hundred percent of all complaints within one  
18 year. This is the last opportunity that the  
19 prosecution had to present this case.

20 I had filed a motion for a speedy trial  
21 back in like November after my trial was  
22 delayed over my objections or my attempt to  
23 object. I objected three times to further  
24 delays, the last one which occurred in  
25 December of this year in which the

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1 prosecution delayed the trial -- requested a  
2 delay that resulted in this May date instead  
3 of a December date, that said we need time to  
4 subpoena witnesses in order to develop  
5 reasonable suspicion and probable cause.

6 Okay. Five months for them to come up  
7 with a reason to arrest me. I don't want to  
8 get into the specifics of everything its done  
9 to me, because we could be here all day  
10 talking about that. The police realize that  
11 even if what they say is true about the  
12 situation, whether I had to provide  
13 identification or not, Officer Lavarro Bean's  
14 conduct is criminal. And they are trying to  
15 avoid everything they can having to deal with  
16 a lawsuit. They want to sweep this under the  
17 rug and hope it goes away.

18 I have been harassed for years by the  
19 police and more recently by this  
20 prosecution. Now, I didn't raise this issue,  
21 the issue of the lawsuit. The prosecution  
22 did. They are trying to paint me as somebody  
23 who is out to get somebody. The truth of the  
24 matter is, I want justice. I want to be left  
25 alone. I don't want to have to be harassed.

1 And I want you to realize that you could be  
2 in the same position I am because right  
3 now --

4 MR. WHITE: Objection, Your Honor.

5 THE COURT: Well, this is argument.

6 You can make that in your closing  
7 argument.

8 MR. MCLAURINE: I'm sorry. I'll  
9 withdraw. I'm sorry.

10 THE COURT: All right. Anything  
11 further?

12 MR. WHITE: Nothing further.

13 THE COURT: All right. You can step  
14 down, Mr. McLaurine. Do you have  
15 any other witnesses to call?

16 MR. MCLAURINE: No, sir.

17 THE COURT: Defense rests?

18 MR. MCLAURINE: The defense rests.

19 THE COURT: All right. I believe I'm  
20 going to let the jury go until in  
21 the morning. We have got some  
22 things that we have got to  
23 discuss. Y'all come up here. You  
24 want to go over these jury  
25 charges?



1 MR. WHITE: I think we can do that real  
2 quick and do closings.

3 THE COURT: I think so.

4 MR. MCLAURINE: I believe it's  
5 possible.

6 THE COURT: All right. Let me let you  
7 go back in there just for a few  
8 minutes and let's see how much  
9 time it takes to do this.

10 (Jury left the courtroom.)

11 THE COURT: All right. The jury is  
12 out. It's 4 o'clock. I want to  
13 have a charge conference here and  
14 see what the parties intend. The  
15 City has submitted ten requested  
16 jury charges. Do you have any  
17 objections to those,  
18 Mr. McLaurine?

19 MR. MCLAURINE: Yes, sir. I'm afraid I  
20 am going to have to object to some  
21 of these.

22 THE COURT: All right.

23 MR. MCLAURINE: I request that we pick  
24 this up in the morning if  
25 possible, give me time to review

1 everything.

2 THE COURT: Well, I would like to hear  
3 your objections now, see if we can  
4 get through with this.

5 MR. MCLAURINE: Well, I was just  
6 presented with these this  
7 morning. I haven't had time to  
8 identify them and go through them  
9 in detail. Might I have half an  
10 hour to review them?

11 THE COURT: Well, that's why I was  
12 saying that -- to let the jury  
13 go. But I thought you said we  
14 could do this in a few minutes.

15 MR. MCLAURINE: I did not quite realize  
16 how long --

17 MR. WHITE: Well, I tell you what,  
18 Judge. If you want to just give  
19 the standard jury charges on --  
20 from the prosecution's point of  
21 view, we will be satisfied with  
22 standard jury charges. Just the  
23 law -- obstructing government  
24 operations and give the charge on  
25 15-5-30 and any elements thereto.

1 I'll be satisfied with that.

2 THE COURT: Well, what I intend to do

3 is my standard oral charge simply

4 goes into what the complaint is,

5 what the burden of proof is, what

6 reasonable doubt is, read the two

7 statutes, must base their verdict

8 on the evidence, talk about the

9 weight of the evidence and the

10 verdicts -- I have two jury

11 verdict forms: We, the jury, find

12 the defendant William S. McLaurine

13 guilty of obstructing government

14 operations as charges; we, the

15 jury, find the defendant William

16 S. McLaurine not guilty of

17 obstructing government operations

18 as charged.

19 MR. WHITE: That's fine with me.

20 THE COURT: You want to withdraw your

21 requested jury charges?

22 MR. WHITE: I'll withdraw my motion,

23 yes.

24 THE COURT: All right. Have you seen

25 Mr. McLaurine's jury charges?

1 MR. WHITE: Judge, I mean -- those are  
2 questions. Those are not  
3 statements of law. I think all of  
4 the questions that are submitted  
5 here are really included in your  
6 standard jury charges. He's  
7 getting at the burden of proof and  
8 the elements of the crime which  
9 you are going to cover in your  
10 standard jury charges. So I don't  
11 know that it would be appropriate  
12 to ask these questions in an open-  
13 ended manner like he has  
14 suggested.

15 THE COURT: Well, they are not in the  
16 proper form.

17 MR. MCLAURINE: May I ask a question?

18 THE COURT: Yes.

19 MR. MCLAURINE: Will those questions be  
20 allowed to be addressed in that  
21 form in my closing statement?

22 THE COURT: Well, you can argue the law  
23 in your --

24 MR. MCLAURINE: Then I'll withdraw my  
25 jury statements in lieu of your

1 standard jury charge as well.

2 THE COURT: All right. Both sides have  
3 withdrawn their requested jury  
4 charges. All right. How long do  
5 y'all want to argue the case?

6 MR. WHITE: I think same as opening,  
7 about 15 minutes would be fine  
8 with me.

9 THE COURT: What do you say,  
10 Mr. McLaurine?

11 MR. MCLAURINE: I would like 15  
12 minutes.

13 THE COURT: Fifteen minutes per side?  
14 All right. Anything else?

15 MR. WHITE: Nothing at this time, Your  
16 Honor.

17 THE COURT: All right. Tell them to  
18 come back in.

19 (Jury entered the  
20 courtroom)

21 THE COURT: All right. The jury is back  
22 in the box. The parties and  
23 attorneys are present. Both sides  
24 have rested. All of the evidence  
25 is in. Your Exhibit #1, has it

1                   been offered and admitted?

2           MR. WHITE: It has been offered and  
3                   admitted. And I would offer  
4                   Exhibit #2, which I believe --

5           THE COURT: It's been offered and  
6                   admitted.

7           MR. WHITE: Okay, sir. That's all I  
8                   have.

9           THE COURT: All right. All of the  
10                   exhibits are in and the testimony  
11                   has been heard. So at this point  
12                   we reach the stage of the case  
13                   where the attorneys will argue  
14                   their case to you. And their  
15                   argument is not evidence. It's an  
16                   argument based on the evidence.  
17                   So at this time they will argue  
18                   the case and then I will charge  
19                   you as to the law. So at this  
20                   time, it's the City.

21           MR. WHITE: If it please the Court,  
22                   good afternoon. I appreciate  
23                   y'all's attention here today. I'm  
24                   going to be real brief in my  
25                   summation. I think this is a very

1 simple case. Mr. McLaurine is  
2 here. He's obviously a very  
3 intelligent young man, but I think  
4 he has a basic misunderstanding of  
5 the law as to how it applies to  
6 him in this situation. The law in  
7 this case is very straightforward,  
8 and the judge told you right from  
9 the beginning what the law was,  
10 and I want to tell you again. I  
11 told you in my opening. I'm going  
12 to tell you one more time.

13 Obstructing government  
14 operations. This is the crime he  
15 is charged with right here. He is  
16 charged with obstructing  
17 government operations. A person  
18 commits a crime of obstructing  
19 government operations if, by means  
20 of intimidation, physical force or  
21 interference, or by any other  
22 independently unlawful act he  
23 intentionally obstructs, impairs,  
24 or hinders the administration of  
25 law or other government function

1 or intentionally prevents a public  
2 servant from performing a  
3 governmental function. Okay?

4 Other independently unlawful  
5 acts. That goes back to 15-5-30,  
6 which is the other code section I  
7 showed to you -- I'm going to show  
8 it to you again -- you got when  
9 you are approached by an officer  
10 who has reasonable suspicion.

11 You've got to give your name, your  
12 address, and what you are doing in  
13 the area, okay.

14 Mr. McLaurine admitted that he  
15 repeatedly refused to give that  
16 basic identifying information. I  
17 asked you in my voir dire -- I  
18 asked you very few questions --  
19 one question I asked you is can  
20 you follow the law. Everybody  
21 indicated that you could follow  
22 the law. The law says when you  
23 are approached by an officer who  
24 has reasonable suspicion that a  
25 crime has been committed, is being



1 committed, or may be about to be  
2 committed, you have to give that  
3 basic information. That's the  
4 law. Like it or not, that's the  
5 law.

6 Mr. McLaurine doesn't agree  
7 with that law. That's fine.  
8 That's his prerogative not to  
9 agree with the law. But that law  
10 applies equally to Mr. McLaurine  
11 as it does to me, as it does to  
12 you, as it does to these  
13 officers. He has a legal  
14 obligation under the law to  
15 provide the officers with that  
16 information. This says here --  
17 You saw this earlier. It talks  
18 about sheriff or other officer.  
19 Basically, it's talking about any  
20 police officer may stop any person  
21 abroad in a public place whom he  
22 reasonably suspects is committing,  
23 has committed, or is about to  
24 commit a felony or other public  
25 offense or may demand of him his

1 name, address, and an explanation  
2 of his actions.

3 Now, Mr. McLaurine has some  
4 misguided ideas that these  
5 officers didn't have reasonable  
6 suspicion to stop him. And you  
7 heard Officer Bean testify he  
8 got -- the dispatch called him,  
9 said they had the 911 call of a  
10 mysterious individual walking in  
11 this area, that he was stopping  
12 and looking, he had something in  
13 his hand. You heard Officer Bean  
14 testify to that.

15 You also heard Officer Bean  
16 testify that this occurred over  
17 the Thanksgiving Day holiday, a  
18 period of time which is known by  
19 Auburn Police Department to be a  
20 high crime -- a period of high  
21 crime. Lots of breaking and  
22 entering, lots of things go  
23 missing. There's very few  
24 students out and about down  
25 there. Clearly, there was

1 reasonable suspicion for him to  
2 suspect a crime may be about to be  
3 committed, is about to commit a  
4 felony or other public offense.  
5 Clearly, Officer Bean had  
6 reasonable suspicion based upon  
7 that information and his knowledge  
8 of the situation. He had --  
9 there's nothing in this statute  
10 that tells Officer Bean I have to  
11 convince Mr. McLaurine of that.  
12 It doesn't say that. It said  
13 Officer Bean has to have  
14 reasonable suspicion. It doesn't  
15 say Mr. McLaurine has to agree  
16 that Officer Bean has reasonable  
17 suspicion. Because if that were  
18 the case, nobody would ever  
19 agree.

20 You don't have reasonable  
21 suspicion to stop me. I'm not  
22 going to give you anything. It  
23 doesn't say that. It says Officer  
24 Bean has to have a reasonable  
25 suspicion. And he clearly had

1 it.

2 Mr. McLaurine clearly had a  
3 duty to respond with just basic  
4 information; name, address, what  
5 are you doing out here. The law  
6 says you have to give it, and he  
7 refused to give it after given  
8 multiple opportunities to give  
9 it.

10 The officers testified we  
11 didn't really want to put him  
12 under arrest. We wanted to see  
13 what he was doing. We wanted to  
14 get his name, keep him on his way  
15 if he wasn't involved in a crime  
16 or if he wasn't wanted. We wanted  
17 to get him on out of there. But  
18 if he would not give us this basic  
19 information, he was in violation  
20 of the law and we had to arrest  
21 him.

22 Mr. McLaurine chose to put  
23 himself in that situation. All he  
24 had to do was give them that basic  
25 information and we wouldn't be

1 here today. And he chose to have  
2 himself arrested. And that's why  
3 we are here.

4 And you have a duty to follow  
5 the law. And in following the  
6 law, your duty is to convict him  
7 of obstructing government  
8 operations. I'm going to have one  
9 more closing after Mr. McLaurine  
10 has a chance to talk to you. I  
11 get to come back and talk to you  
12 briefly. Thank you.

13 THE COURT: All right. Mr. McLaurine?

14 MR. MCLAURINE: I'm going to go over  
15 what I stated earlier. At this  
16 time, you get to consider the  
17 evidence. Reasonable suspicion is  
18 a matter of law. But it requires  
19 a specific objective criteria that  
20 a police officer has to have in  
21 order to possess reasonable  
22 suspicion. At times in night or  
23 high crime areas, the threshold  
24 for that level of suspicion goes  
25 way down. But it still has to be

1 something specific. Stealthy  
2 movements, an attempt to conceal  
3 location. In certain drug  
4 neighborhoods, being able to  
5 pass -- see somebody pass  
6 something is just enough. You  
7 heard no testimony about any  
8 specific act that might relate to  
9 a crime. That's the reasonable  
10 suspicion part. I forgot to  
11 mention the whole part about  
12 crimes.

13 Officer Bean said he didn't  
14 know of a crime that was  
15 committed, didn't know of one  
16 being committed now, and couldn't  
17 name a specific crime that was  
18 going to be committed. So not  
19 only did he not have reasonable  
20 suspicion, he didn't even have a  
21 crime to tell you about.

22 This is the statute that  
23 authorizes him to ask those  
24 questions and he couldn't fulfill  
25 it. This is the actual statute

1 I'm charged with. We talked about  
2 it. There were four things that  
3 Officer Bean could have -- four  
4 descriptions of activity that he  
5 observed that would be qualified  
6 under this statute.

7 Intimidation. Arrest me or I'm  
8 going to -- or let me go is  
9 intimidation by his definition.  
10 That was the first thing.

11 The second thing was an  
12 independently unlawful act.  
13 Independently unlawful means not  
14 in this statute. Anywhere in the  
15 code as far as I'm concerned. The  
16 reason you were obstructing  
17 government operations is because  
18 you were obstructing government  
19 operations is the argument they  
20 are presenting here.

21 Intentionally obstructs, impairs,  
22 or hinders the administration of  
23 law or other government function.

24 Intentionally. I had to  
25 recognize that the police were

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1 forming a lawful investigation in  
2 my mind in order to form any  
3 intent to obstruct it. If they  
4 were performing a lawful action --  
5 I mean a lawful government  
6 function, then I can't form the  
7 intent to obstruct it. Same thing  
8 for the second one, but the second  
9 one goes even further because  
10 Officer Bean got what he wanted  
11 eventually. This means Officer  
12 Bean was not prevented. He got it  
13 in the end. This means this is  
14 the only one you can even remotely  
15 consider as a crime in this  
16 matter.

17 Intentionally. I've done a  
18 lot of research on this. They  
19 mention the Hiibel case. The  
20 important thing to consider about  
21 the Hiibel case is, what does it  
22 actually say? Hiibel supports  
23 previous decisions like Texas v.  
24 Brown which states that if  
25 everything I told you, you must



1 have an objective criteria that in  
2 order to come up with this  
3 reasonable suspicion. Simply  
4 being in an area at a time of  
5 night or during a high crime area  
6 is not enough. It must be a  
7 specific, articulatable, objective  
8 fact. And they couldn't produce  
9 anything other than I was in the  
10 area at night.

11 The complaint called. There  
12 was no articu-- there wasn't even  
13 an allegation of a crime. Who is  
14 this guy walking at night was the  
15 summation of this call. That's  
16 it. So if your neighbor sees you  
17 out in the yard at night, hey,  
18 send the police over. There's  
19 somebody out there and I want to  
20 know what they're doing.

21 The Fourth Amendment still  
22 means something. Every  
23 prosecution that occurs and  
24 results in a conviction in this  
25 case -- in this type of thing ends

1 up because the defense didn't  
2 raise the proper arguments. I  
3 raise that this law is void for  
4 vagueness. You can't understand  
5 it. That means you can't read  
6 this law and know what it means.

7 There are three precedents.  
8 The first is that the law is  
9 narrowly construed to only ask for  
10 a name, an unqualified name at  
11 that, too. And the fact that the  
12 assent in the opinion says  
13 something like Harry Strongarm or  
14 something, a nonsense thing.  
15 Because the courts have previously  
16 ruled that credible and reliable  
17 is not a constitutional  
18 description of the name you have  
19 to provide. Because it's void for  
20 vagueness.

21 What does credible and  
22 reliable mean? What if you don't  
23 have an ID? Brown, the other case  
24 that I cited, basically goes on to  
25 say that in addition to this name

1 issue, if you are required to  
2 explain what you are doing, that's  
3 a direct violation of the Fourth  
4 Amendment. And every law that  
5 contains that provision is  
6 unconstitutional. So when they  
7 told me, you have to tell me what  
8 you're doing, I knew that no such  
9 law could exist.

10 But more importantly, let's  
11 look at what it says. 15-5-30.  
12 May demand of his name, address,  
13 and explanation of his actions.  
14 The police said they repeated the  
15 statements over and over and over  
16 again. They got to make their  
17 demands. This statute says  
18 nothing about my duty to respond.  
19 It is not clear.

20 In the Hiibel case, the  
21 statute specifically says you have  
22 to respond, and the Court ruled  
23 that because of that, it wasn't  
24 void for vagueness. But it also  
25 went on to say there are other

1 reasons that we are not going to  
2 consider because Hiibel was an  
3 appellate decision and, like I  
4 told you before, the only way this  
5 law stands is if the defense fails  
6 to raise the arguments.

7 The three in Hiibel were the law  
8 was void for vagueness. I raised  
9 it. The law is not narrowly  
10 construed to basically be what the  
11 Supreme Court said they could do.  
12 I just raised it. And the  
13 reasonable suspicion needed to  
14 independently exist, I raised it  
15 and I say it doesn't. So Hiibel  
16 has no bearing here.

17 Every other case the Supreme Court  
18 has heard that says you have to  
19 present identification to a police  
20 officer has been struck down for  
21 one reason or another. And that's  
22 what this is about.

23 Again, I come back and I  
24 remind you they did not provide  
25 the evidence to convict you even

1 if the laws as they described them  
2 were true. That's all I have,  
3 Your Honor.

4 THE COURT: All right. Mr. White?

5 MR. WHITE: Yes, sir.

6 THE COURT: You got your nine minutes  
7 left.

8 MR. WHITE: I don't think it will take  
9 that long, Your Honor. Let me  
10 just close a bit briefly by saying  
11 again, I respect Mr. McLaurine.  
12 He's a smart young man, but he's  
13 very misguided as to the law that  
14 applies in this case, okay. The  
15 law that applies in this case is  
16 the two laws that you have seen on  
17 the board here today and he's here  
18 making some kind of appellate  
19 argument that's very confusing to  
20 me, and I think probably very  
21 confusing to you about Hiibel and  
22 other appellate decisions.

23 The bottom line is  
24 Mr. McLaurine doesn't agree with  
25 this law. That's fine. That's

1 his prerogative not to agree with  
2 the law. But the real bottom line  
3 is if you disobey this law, even  
4 though you disagree with it, it  
5 still applies to you and you are  
6 still going to be arrested for  
7 breaking the law, and you are  
8 still going to be convicted for  
9 breaking the law even though you  
10 disagree with it.

11 Now, if you want to change  
12 that law, there's two ways to do  
13 it. And this is not one of them.  
14 Well, one is to go all the way to  
15 the United States Supreme Court  
16 and convince them that he's right,  
17 which apparently is the argument  
18 he's trying to make to you, some  
19 kind of Supreme Court argument.  
20 Now, if he appeals all the way on  
21 up and the Supreme Court agrees  
22 with him, more power to him.

23 The other way is to go to the  
24 legislature and ask the  
25 legislature to change the law.

1 But short of that, this court, and  
2 this court, we follow the law.  
3 This is not a court to change the  
4 law. This is a court to follow  
5 the law. And that's why I asked  
6 you that question in voir dire  
7 this morning. Can you follow the  
8 law? Because the law is you don't  
9 give your name and you don't give  
10 your address, you don't give basic  
11 identifying information, then you  
12 obstruct; therefore, a government  
13 investigation of a potential crime  
14 afoot, then you are guilty of  
15 obstructing government  
16 operations. That's the law in  
17 this case.

18 Mr. McLaurine doesn't like the  
19 law. He wants to -- he thinks we  
20 are all criminals and he wants the  
21 city to pay him \$250 million for  
22 it. But the bottom line is,  
23 that's the law that applies to  
24 this case; that's the law that  
25 applies to Mr. McLaurine; and if

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1                   you follow that law, you will  
2                   convict him of obstructing  
3                   government operations. Thank you.

4       THE COURT: All right. Ladies and  
5                   gentlemen. You have heard the  
6                   argument of the attorneys. You  
7                   have received all the evidence in  
8                   the case. At this point, it  
9                   becomes my duty to charge you as  
10                  to the law. It's my job as judge,  
11                  sometimes referred to as the  
12                  Court, to tell you the law. You  
13                  are not expected to know the law,  
14                  so that is why it is my job to  
15                  tell it to you. You should not  
16                  think from anything that I tell  
17                  you now or in any way that I have  
18                  ruled that I am trying to express  
19                  an opinion about the facts. I am  
20                  not. Because you are the people,  
21                  the sole judges of the facts in  
22                  this case. You have no interest  
23                  in the case, no personal interest  
24                  in the outcome of the case one way  
25                  or the other. You are not



1 expected to know the law, so it's  
2 my duty to tell you the law as it  
3 applies in this case in order that  
4 you can take the law and apply it  
5 to the facts as you determine them  
6 and then arrive at a verdict in  
7 the case.

8 Sympathy or emotion are not  
9 elements of evidence and must not  
10 be allowed to influence you in the  
11 consideration of the evidence.  
12 Many, as I told you in the  
13 beginning of this case, came to  
14 the court by reason of a complaint  
15 being filed. That complaint is  
16 not evidence in the case, but it  
17 is the vehicle by which the case  
18 comes to you today as a juror.  
19 That complaint reads as follows.  
20 Comes now the City of Auburn,  
21 Alabama, a municipal corporation  
22 of the State of Alabama, by its  
23 undersigned attorney and complains  
24 that said defendant, William S.  
25 McLaurine, within 12 months before

1 the beginning of the prosecution  
2 of this cause, within the city  
3 limits of Auburn or the police  
4 jurisdiction thereof, by means of  
5 intimidation, physical force or  
6 interference or by any other  
7 independently unlawful act did  
8 intentionally obstruct, impair, or  
9 hinder the administration of law  
10 or other governmental function, or  
11 did intentionally prevent a public  
12 servant from performing a  
13 governmental function in violation  
14 of Section 13A-10-2 of the Code of  
15 Alabama as amended and as adopted  
16 by ordinance 1130 as adopted by  
17 the city council of the City of  
18 Auburn. Said ordinance is  
19 codified in Section 13-1, code of  
20 Auburn.

21 I'm going to read you those  
22 two statutes in a minute, but that  
23 is merely the complaint that  
24 brings the case before you. I'm  
25 going to talk to you about the

1                   burden of proof. When this  
2                   complaint was filed in this court,  
3                   the defendant, as he had a right  
4                   to do, filed a plea of not  
5                   guilty. The plea of not guilty  
6                   cast the burden of proof on the  
7                   City to prove guilt beyond a  
8                   reasonable doubt and to a moral  
9                   certainty that the defendant is  
10                  guilty as charged. The defendant  
11                  has no burden of proof  
12                  whatsoever. He does not have to  
13                  prove he is innocent. He comes  
14                  into the court with a presumption  
15                  of innocence which surrounds him  
16                  throughout the trial of the case  
17                  and even attends him in the jury  
18                  room until each and every member  
19                  of the jury, after considering all  
20                  of the evidence in the case, are  
21                  convinced beyond a reasonable  
22                  doubt that he is guilty as  
23                  charged.

24                   And then at that time, and  
25                   only at that time, would he shed

1 his presumption of innocence,  
2 sometimes referred to as the cloak  
3 of innocence. The presumption of  
4 innocence is to be regarded by you  
5 as evidence in favor of the  
6 defendant.

7 Now, let me tell you what  
8 reasonable doubt is. In order to  
9 find the defendant guilty, the  
10 prosecution must prove guilt  
11 beyond a reasonable doubt and to a  
12 moral certainty. What do I mean  
13 by reasonable doubt? A reasonable  
14 doubt is not a fanciful doubt or a  
15 conjectural doubt, but is a doubt  
16 which appeals to your reason after  
17 considering all the evidence in  
18 the case. The Court can better  
19 express it this way. In  
20 connection with reasonable doubt,  
21 you cannot establish guilt to a  
22 mathematical certainty. You can  
23 only do it to that certainty as  
24 you weigh the everyday affairs of  
25 life that you come in contact

1 with.

2 A reasonable doubt does not  
3 mean a capricious doubt. It is  
4 not a doubt based on conjecture or  
5 speculation or guesswork. It does  
6 not mean beyond all doubt. A  
7 reasonable doubt means a real  
8 doubt or a substantial doubt  
9 growing out of the evidence. It  
10 is a doubt for which a reason can  
11 be given.

12 What do I mean by moral  
13 certainty? Expression beyond a  
14 reasonable doubt and to a moral  
15 certainty are equivalent and,  
16 therefore, mean the same thing.  
17 Now, the two statutes that have  
18 been shown to you over the period  
19 of this trial several times are as  
20 follows. Section 13A-10-2 is the  
21 statute regarding obstructing  
22 governmental operations and reads  
23 as follows: A person commits the  
24 crime of obstructing governmental  
25 operations if, by means of

1 intimidation, physical force or  
2 interference, or by any other  
3 independently unlawful act he,  
4 number one, intentionally  
5 obstructs, impairs, or hinders the  
6 administration of law or other  
7 governmental function or  
8 intentionally prevents a public  
9 servant from performing a  
10 governmental function. This  
11 section does not apply to  
12 obstruction, impairment, or  
13 hindrance of the making of an  
14 arrest. Obstructing governmental  
15 operations is a Class A  
16 misdemeanor.

17 The other statute is Section  
18 15-5-30 about the authority of a  
19 police officer to stop and  
20 question. It reads as follows: A  
21 sheriff or other officer acting as  
22 sheriff, his deputy, or any  
23 constable acting within their  
24 respective counties, any marshal,  
25 deputy marshal, or policeman of

1 any incorporated city or town  
2 within the limits of the county,  
3 or any highway patrolman or state  
4 trooper, may stop any person  
5 abroad in a public place whom he  
6 reasonably suspects is committing,  
7 has committed, or is about to  
8 commit a felony or other public  
9 offense and may demand of him his  
10 name, his address, and an  
11 explanation of his actions.

12 Now, you are to base your  
13 verdict on the evidence in this  
14 case. Evidence is to be  
15 considered by you in the testimony  
16 and the exhibits presented to you,  
17 and the presumption not refuted by  
18 the evidence. You are not to  
19 consider as evidence the  
20 complaint, the arguments of the  
21 lawyers, and the rulings of the  
22 court.

23 In regard to the weight of the  
24 evidence, all twelve of you must  
25 agree before you reach any verdict

1 in this case. Your verdict must  
2 be the verdict of each and every  
3 juror. You are the sole judges as  
4 to the weight that should be given  
5 to all the testimony in the case.  
6 You should take the testimony of  
7 the witnesses, together with all  
8 proper and reasonable inferences  
9 therefrom, apply your common  
10 sense, and in an honest and  
11 impartial way, determine what you  
12 believe to be the truth. You  
13 should weigh all of the evidence  
14 and reconcile it if possible.

15 But if it cannot be  
16 reconciled, you ought to take that  
17 evidence which you think is worthy  
18 of credit and give it such just  
19 weight as you think it is  
20 entitled. You may take into  
21 consideration any interest any  
22 witness may have in the outcome of  
23 this case. If you believe that  
24 any material part of the evidence  
25 of any witness is false, you may



1 disregard all of the testimony of  
2 such witness.

3 Now, to aid you in the proper  
4 verdict in this case, I have  
5 prepared two forms of verdict  
6 agreed to by the parties. These  
7 are the two verdicts which you  
8 will take with you to the jury  
9 room. We, the jury, find the  
10 defendant, William S. McLaurine,  
11 not guilty of obstructing  
12 governmental operations as  
13 charged. There's a place for the  
14 foreman to sign. The other, we,  
15 the jury, find the defendant,  
16 William S. McLaurine, guilty of  
17 obstructing government operations  
18 as charged, and a place for the  
19 foreperson to sign.

20 When you go back to the jury  
21 room you should select one of your  
22 number as the foreperson. The  
23 duty of the foreperson or foreman  
24 is to preside over the  
25 deliberations and to sign the

1 verdict of the jury. The verdict,  
2 as I have already told you, must  
3 be the verdict of all twelve of  
4 you. When you have arrived at  
5 your verdict, you will knock on  
6 the jury door and you will be  
7 returned in the courtroom to give  
8 your verdict. In the meantime,  
9 until you return your verdict, it  
10 is absolute necessary that all of  
11 you stay together and that you not  
12 separate even for a moment.

13 Now, therefore, it is your  
14 duty just to determine the guilt  
15 or innocence in this case. It  
16 will not be your duty to impose  
17 the sentence. That will be the  
18 duty of the court.

19 And, at this point, I need to  
20 reveal who the alternate juror is  
21 and that juror will be excused.  
22 The alternate juror is Vernell  
23 Welch. All right. Thank you very  
24 much. It's a very important  
25 service that you have rendered.

1 You were available in case we  
2 needed a juror and, at this point,  
3 you are excused. And you need to  
4 check with the code-a-phone  
5 tonight and see what the  
6 instructions are about tomorrow.

7 (Alternate juror excused.)

8 THE COURT: Now, ladies and gentlemen,  
9 when you get back to start your  
10 deliberations as stated to you,  
11 you first need to select the  
12 foreperson. At that point, you  
13 will be totally in charge of what  
14 takes place after that. If you  
15 want to take any breaks then it's  
16 up to you. If you want to  
17 deliberate until 5 o'clock, if you  
18 have not reached a verdict by that  
19 time and you want to go home, then  
20 we can let you go home. The  
21 security has asked us not to let  
22 you stay after five, so if you  
23 don't reach a verdict by five,  
24 then you will come back in the  
25 morning.

1 If you have any questions,  
2 then what you should do is to have  
3 the foreman write the question out  
4 and then give it to the bailiff  
5 and the bailiff will bring that in  
6 to the court. At that time, we  
7 will decide whether or not we need  
8 to bring you out back into the  
9 courtroom to discuss that question  
10 or to give you any further  
11 information. What says the state?

12 MR. WHITE: City is satisfied Your  
13 Honor.

14 THE COURT: City. All right. What  
15 says the defendant?

16 MR. MCLAURINE: Defense is satisfied.

17 THE COURT: All right. You need to  
18 take these two verdict forms and  
19 evidence.

20 (Jury retired to the jury room  
21 to deliberate)

22 (Jury entered the courtroom)

23 THE COURT: Is that everyone? All  
24 right. The jury is back in the  
25 box. I understand you've reached

1 a verdict? Is that correct? Will  
2 the foreperson hand that up,  
3 please? The jury verdict rendered  
4 is as follows: We, the jury, find  
5 the defendant, William S.  
6 McLaurine, guilty of obstructing  
7 governmental operations as  
8 charged.

9 At this time, I need to poll  
10 the jury to ask each one of you if  
11 this is your individual verdict.

12 I'll start on the front row,  
13 left to right. Is this your  
14 verdict?

15 JUROR: Yes, it is.

16 THE COURT: Is it your verdict?

17 JUROR: Yes, sir.

18 THE COURT: The second row, starting at  
19 the right, is this your verdict?

20 JUROR: Yes.

21 THE COURT: Your verdict?

22 JUROR: Yes, sir.

23 THE COURT: Your verdict?

24 JUROR: Yes.

25 THE COURT: Your verdict?

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JUROR: Yes, sir.

THE COURT: Is this your verdict?

JUROR: Yes, sir.

THE COURT: Starting at the left at the  
top, is this your verdict?

JUROR: Yes, sir.

THE COURT: Is this your verdict?

JUROR: Yes, sir.

THE COURT: Is this your verdict?

JUROR: Yes, sir.

THE COURT: Is this your verdict?

JUROR: Yes, sir.

THE COURT: Is this your verdict?

JUROR: Yes.

THE COURT: All twelve jurors have  
affirmatively stated that this is  
their unanimous verdict. At this,  
time you will be dismissed, and  
thank you very much for your  
service. It's very low pay and a  
lot of interference with what you  
do, but it's extremely important,  
and we cannot operate the judicial  
system without citizens like you  
willing to give your time. So we

1 want to thank you very much. You  
2 are hereby dismissed and you need  
3 to turn in your note pads and you  
4 need to check on the -- you are  
5 not dismissed for the whole week  
6 now. You are just dismissed until  
7 in the morning. But really check  
8 on the code-a-phone tonight and  
9 see what they tell you about being  
10 back tomorrow or when you should  
11 be back. So thank you very much  
12 for your services. You are  
13 dismissed.

14 (Jurors dismissed)

15 THE COURT: I need for you to put this  
16 next in the record. All right.  
17 Mr. McLaurine, the jury has found  
18 you guilty. I'm going to continue  
19 your case for sentencing until May  
20 25 at 9 o'clock. You need to go  
21 to the probation office right now  
22 and let them begin the interview.  
23 And the purpose of putting that  
24 off until May 25 is to allow the  
25 probation officers to look at your

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record and submit a report to me.  
And so you need to go right out  
this door and to the right and you  
need to be back May 25 at 9  
o'clock for the sentencing. You  
are continued on the same bond.  
All right? Court is adjourned.  
Thank you.

\* \* \* \* \*



REPORTER'S CERTIFICATE

I do hereby certify that the above and foregoing transcript of proceedings in the matter aforementioned was taken down in machine shorthand, and that the questions and answers thereto reduced to writing under my personal supervision, and that the foregoing represents a true and correct transcript of the proceedings.

I further certify that I am neither of counsel nor related to the parties to the action, nor am I in any wise interested in the result of said cause.

DATED this the 20th day of July, 2006.

*Willie T. Bennett*

WILLIE T. BENNETT

OFFICIAL COURT REPORTER

226

IN THE CIRCUIT COURT OF  
LEE COUNTY, ALABAMA  
THIRTY-SEVENTH JUDICIAL CIRCUIT

CITY OF AUBURN,

Plaintiff,

vs.

CASE NO. CC-05-289

WILLIAM MCLAURINE,

Defendant.

\* \* \* \* \*

BEFORE: The Honorable John V. Denson, III,  
Circuit Judge  
Lee County, Alabama  
May 25, 2006

APPEARANCES

FOR THE PLAINTIFF:

Mr. Michael Short  
Attorney at Law  
Opelika, Alabama

FOR THE DEFENDANT:

Pro Se  
Mr. William McLaurine

\* \* \* \* \*

Kimberly Ingram, CSR  
Official Court Reporter  
Opelika, Alabama 36803

1 MR. SHORT: Judge, I'm standing  
2 in for Matt White. If I understand  
3 correctly, I believe he's already  
4 appealed. This case is on appeal  
5 now.

6 MR. MCLAURINE: I've not filed  
7 an appeal. I filed a Notice of  
8 Appeal for pre-trial motions. I  
9 will be appealing it, though.

10 MR. SHORT: Judge, at this time  
11 it's the City's position -- this is  
12 a sentencing hearing. It's the  
13 City's position, pending the outcome  
14 of any appeal, if the conviction is  
15 upheld, it's the City's position  
16 that he be sentenced to a year in  
17 the county jail.

18 THE COURT: All right, sir. Do  
19 you have something to say?

20 MR. MCLAURINE: I have a few  
21 letters here.

22 (The letters were handed to Judge.)

23 THE COURT: All right, sir. I  
24 read your letters. Do you have  
25 anything to say?

1 THE WITNESS: In addition to  
2 that, sir, I believe that when Phil  
3 Thompson was representing me, he  
4 entered into the record that the  
5 City offered a deal to nol pros the  
6 case in which they would drop the  
7 charges if I agreed not to sue the  
8 City with no further problems or  
9 situations attached to that. I  
10 don't understand why the City is now  
11 asking for the maximum sentence  
12 allowed on jail time at this point  
13 if they didn't feel at that time  
14 that anything other than civil  
15 release was necessary. In addition  
16 to that, the situation was such that  
17 I did nothing violent, I did nothing  
18 that endangered the officers or  
19 disobeyed the officers when they  
20 were attempting to secure the scene  
21 for their own personal safety. And,  
22 again, I believe the law is clear on  
23 this, that the actions that I took  
24 are not criminal, and that the  
25 argument presented by the City did

1 not meet the requirements to be --  
2 to prosecute this even under  
3 declaration of what the law is.

4 THE COURT: Well, I understand  
5 your position that you think the law  
6 is incorrect and you want to make a  
7 test case and appeal it. And I have  
8 no problem with that. But what came  
9 out in the trial, it appeared that  
10 you sought to be arrested so you  
11 could file suit against the City and  
12 that you made a claim for millions  
13 of dollars against the City.

14 THE WITNESS: Yes, sir, that is  
15 true. But the situation was not  
16 that I sought to be arrested. The  
17 situation was that I sought to prove  
18 the point that the police have been  
19 harassing me and are continuing to  
20 harass me.

21 THE COURT: You can make a test  
22 case out of that without threatening  
23 to sue the City for millions of  
24 dollars.

25 THE WITNESS: I don't

1 understand. That I do, understand,  
2 sir, but that's a separate and  
3 related issue. The fact that I'm a  
4 professional engineer is a problem.  
5 It damages me financially. Whether  
6 or not there's any merit to that  
7 case is a matter for a civil trial  
8 court to decide. And I don't know  
9 how it has any bearing here.

10 THE COURT: Well, it has a  
11 bearing on your sentence. It  
12 appears to me what your motives  
13 were, were mainly to file a lawsuit  
14 rather than a test case.

15 THE WITNESS: Okay.

16 THE COURT: Do you have  
17 anything else?

18 MR. SHORT: No, sir.

19 THE COURT: This is a very  
20 small offense that you could have  
21 handled in a much different way than  
22 you did. I'm going to sentence you  
23 to three months in the county jail,  
24 but I'm going to suspend that and  
25 put you on one year of unsupervised

1 probation, and order you to pay a  
2 fine of five hundred dollars. And  
3 you needed to start paying that in  
4 June. So I'm suspending your  
5 sentence of three months, but if you  
6 violate your probation or get in any  
7 further trouble during that one  
8 year, then the probation would be  
9 revoked and you would start serving  
10 that time.

11 If you take an appeal, you make  
12 an appeal bond. And you're still on  
13 bond, isn't that right?

14 THE WITNESS: Yes, sir.

15 THE COURT: Okay. All right.  
16 Anything further?

17 MR. SHORT: No, Your Honor.

18 THE WITNESS: No, sir. I would  
19 like to make a vocal notice of  
20 appeal and ask that the sentence be  
21 suspended.

22 THE COURT: Well, you need to  
23 file a written appeal.

24 THE WITNESS: Yes, sir, I know  
25 that I need to do that. But also,

1 at this point, since I'm going to be  
2 filing an appeal --

3 THE COURT: I can't give you  
4 legal advice. You declined to have  
5 an attorney, you wanted to serve as  
6 your own attorney, so the court  
7 can't give you legal advice.

8 THE WITNESS: I understand  
9 that. I am making a formal  
10 declaration of notice of appeal --

11 THE COURT: I don't think  
12 that's going to be sufficient.

13 THE WITNESS: I know that, sir,  
14 I know that. I know that there is a  
15 written requirement part of that,  
16 but there's also a verbal allowance  
17 for appeal at the court. Time -- at  
18 this time I would also like to  
19 motion that the record of appeal  
20 include the orders for motions of  
21 continuance and all pretrial  
22 discovery material.

23 THE COURT: Well, you need to  
24 file all that in writing.

25 THE WITNESS: Okay.



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THE COURT: And you need to be aware of all the rules. If you want to continue to represent yourself, you're going to be bound by the rules that you would have even if you had a lawyer.

THE WITNESS: I understand that.

THE COURT: So if you decline to be represented, then you need to follow those rules.

THE WITNESS: All right. Who do I --

THE COURT: Do what?

THE WITNESS: Who do I need to see today?

THE COURT: You need to see the probation -- do y'all need to see him?

PROBATION OFFICER: No.

THE COURT: No, sir. That's all.

THE WITNESS: When do I need to do anything else, report to you?

THE COURT: I can't give you

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legal advice. If you're going to take an appeal, you need to take an appeal.

THE WITNESS: Okay. So I'm free to go today?

LEGAL ASSISTANT: Judge, there's court costs, five hundred dollars in fines, and how much to the victim's restitution fund?

THE COURT: Twenty-five dollars to the victim's restitution fund.

(Whereupon, the aforementioned matter was concluded at this time.)

C E R T I F I C A T E

STATE OF ALABAMA)

COUNTY OF LEE)

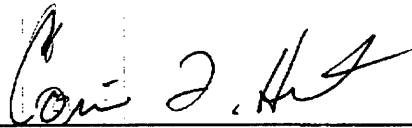
I do hereby certify that the above and foregoing transcript of proceedings in the matter aforementioned was taken down by me in machine shorthand, and the questions and answers thereto reduced to writing under my personal supervision, and that the foregoing represents a true and correct transcript of the proceedings given by said witness upon said hearing.

I further certify that I am neither of counsel nor related to the parties to the action, nor am I in any wise interested in the result of said cause.

DATED this the 20th day of July, 2006.

**FILED**  
JUL 20 2006  
IN OFFICE  
CORINNE T. HURST  
CIRCUIT CLERK

*Kimberly Ingram*  
Kimberly Ingram, CSR

State of Alabama Unified Judicial System  Form ARAP - 14    11/91	<b>CERTIFICATE OF COMPLETION AND          TRANSMITTAL OF RECORD ON          APPEAL BY TRIAL CLERK</b>	Appellate Case Number				
TO: THE CLERK OF THE COURT OF CRIMINAL APPEALS OF ALABAMA		DATE OF NOTICE OF APPEAL: 5/8/06				
<table style="width: 100%; border: none;"> <tr> <td style="width: 30%; border: 1px solid black; padding: 2px;">APPELLANT</td> <td style="border: none; text-align: center; padding: 2px;">WILLIAM S MCLAURINE</td> </tr> <tr> <td style="border: 1px solid black; padding: 2px;">v.</td> <td style="border: none; text-align: center; padding: 2px;">CITY OF AUBURN</td> </tr> </table>			APPELLANT	WILLIAM S MCLAURINE	v.	CITY OF AUBURN
APPELLANT	WILLIAM S MCLAURINE					
v.	CITY OF AUBURN					
<p>I certify that I have this date completed and transmitted herewith to the appellate court the record on appeal by assembling in (a single volume of _____ pages) ( <u>  2  </u> volumes of 200 pages each and one volume of <u>  44  </u> pages) the clerk's record and the reporter's transcript and that one copy each of the record on appeal has been served on the defendant and the Attorney General of the State of Alabama for the preparation of briefs.</p> <p>I certify that a copy of this certificate has this date been served on counsel for each party to the appeal.</p> <p>Dated this <u>  25TH  </u> day of <u>  JULY  </u>, 20 <u>  06  </u>.</p> <div style="text-align: center; margin-top: 50px;">         _____        Circuit Clerk     </div> <div style="text-align: center; margin-top: 50px;">       _____     </div>						